

## **CHAPTER 50-06.3 FEES AND EXPENSES**

### **50-06.3-01. Definitions.**

As used in this chapter, "department" means the department of human services, including the state hospital.

### **50-06.3-02. Fees for services at regional centers.**

The department may charge and collect fees and expenses for services provided through its regional human service centers, and may authorize charging of fees for child support services. The department may establish fee scales which recognize the service recipient's or responsible relative's ability to pay. The department shall adopt such rules as are necessary to implement this chapter and to define terms used in this chapter.

### **50-06.3-03. Fees and expenses chargeable against patients.**

Expenses for care and treatment of each patient at the state hospital must be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the patient's or other responsible party's ability to pay which must include an estimate of potential future receipts including amounts from estates. The department shall recover expenses charged for care and treatment. The department may not recover expenses under this chapter for care and treatment of a patient transferred to the state hospital from a jail or regional corrections center. If any patient is receiving social security benefits or is a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, the expenses are a current claim against the patient and may be recovered monthly by the department except that any amount required by the payor of the benefits to be paid directly to the patient must be credited to the patient's personal account from any money thus received.

### **50-06.3-04. Liability for payment.**

The recipient, patient, recipient's or patient's estate, and recipient's or patient's spouse are liable for fees and expenses for services rendered by the department, through its regional human service centers, and for care and treatment expenses charged at the state hospital. The parents of a recipient or patient are responsible for services, care, and treatment provided prior to the eighteenth birthday of the recipient or patient.

### **50-06.3-05. Handicapped patients - Limitation.**

Notwithstanding any other provision of this chapter, no handicapped patient under twenty-one years of age or the estate or the parent of such patient may be charged for educational or related services provided at the state hospital. However, the department has prior claim on all benefits accruing to such patients for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability provisions of programs administered by the department. For the purposes of this section, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services, other than medical and medically related services, must be paid by the state hospital, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each such agency and political subdivision shall be liable. The department of public instruction may adopt rules necessary to implement this section.

**50-06.3-06. Application for waiver of fees and expenses - Review procedure.**

1. Any person liable for the expenses of care and treatment at the state hospital may make application to the department to pay less than the expenses charged. The application must be accompanied by proof of the applicant's inability to pay. Any person who seeks relief from the payment of expenses for services provided by the state hospital shall do so with the understanding that the department may verify any statement made in such application by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of the applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota, or any of its political subdivisions.
2. Upon receipt of an application made pursuant to subsection 1, the department shall direct the county social service board of the applicant's county of residence to determine the applicant's ability to pay all, a portion, or none of the expenses charged. The department shall approve, reject, or amend the determination made by the county social service board. The determination made by the department may be appealed to the district court of the applicant's county of residence.

**50-06.3-07. Claims against the estate of recipients or patients.**

Claims for fees and expenses charged by the state under this chapter may be filed by the department against the estate of a person liable for the fees and expenses at any time prior to the final distribution of the estate with the same priority as claims of general creditors which are filed against the estates of decedents. Any claim denied or rejected by a personal representative must clearly state, in a written notice to the department, the reason for denial or rejection. Every personal representative, upon the granting of letters of administration or testamentary, shall, at the time that publication of notice to creditors is made, forward to the department a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective district court, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. If no notice is required by the proceedings, the personal representative shall forward to the department a copy of the petition or application commencing the proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. Unless a properly filed claim of the department is paid in full, the personal representative shall provide to the department a statement of assets and disbursements.

**50-06.3-08. Reduction or writeoff of accounts - Reports required.**

The department may authorize the reduction or writing off of a recipient's or patient's past-due account from the department's financial records upon making a determination that the account is not collectible. The department, by September first after the close of each fiscal year, shall present a detailed report to the legislative audit and fiscal review committee on the status of accounts receivable for that fiscal year. The report must include:

1. An aging by recipient classification of accounts remaining unpaid.
2. The amounts by recipient classification by which accounts were reduced or written off for reasons other than payment during that fiscal year.

**50-06.3-09. Expenses chargeable against guardianship estate of patient - Restrictions.**

The expenses chargeable by the state for the care and treatment of any patient at the state hospital must be charged against the guardianship estate of the patient, if the patient has an estate, subject to the following restrictions:

1. No part of the estate may be taken if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of the estate would result in undue hardship to those dependents.
2. No real property belonging to the estate may be sold during the lifetime of the patient except for the maintenance and support of the patient's dependents, unless it is shown

that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the district court having jurisdiction of the estate, with the consent of the department.

3. No personal property belonging to the estate may be sold within five years from the date upon which the patient was sent to the institution unless the property is ordered sold by the district court having jurisdiction of the estate for the reason that the property is likely to deteriorate in value during the time herein specified.

If any real or personal property is sold pursuant to this section, the district court shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of the patient's dependents or used to pay the costs of care and treatment of the patient.

**50-06.3-10. State's attorneys or attorney general to bring action for expenses - Contract for collections.**

1. Upon the request of the department to a state's attorney or the attorney general, in regard to fees and expenses charged pursuant to this chapter, the state's attorney or the attorney general shall bring an action against the person or estate liable for the fees and expenses for the payment of the amount due the state.
2. The department is permitted to contract with collection agencies for the collection of amounts due the state under this chapter.

**50-06.3-11. Statute of limitations not bar to recovery.**

No statute of limitations or similar statute or the doctrine of laches shall bar the right of recovery for fees and expenses under this chapter, but this section does not apply to claims that may be otherwise barred by law prior to July 1, 1961. It is not necessary to bill currently any person for those accounts determined to be inactive, or currently uncollectible, or for which it has been determined as provided by law that there is no present ability to pay. Current billings must be made for amounts chargeable by law or for which it has been determined the patient or responsible relative presently has an ability to pay, but the manner of billing shall in no way affect the total amount due.

**50-06.3-12. Interest not to accrue on uncollected claims.**

Rights existing and vested or instruments executed under sections 50-24-13, 50-24-15, 50-24-30, 50-24-33, 50-24-34, and 50-24-38 prior to July 1, 1979, continue to be effective until their expiration according to their own terms or by force of law. Interest not already collected may not accrue on the principal amount of those claims.