

03/26/2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2012

Page 1, line 4, replace "section" with "sections 50-24.1-31,"

Page 1, line 4, after "50-24.1-37" insert ", and 50-24.4-06"

Page 1, line 5, after the first "to" insert "optional medical assistance for families of children with disabilities,"

Page 1, line 5, after "program" insert ", and nursing home rate determination"

Page 1, line 7, after "exemption" insert "; to provide an effective date; to provide an expiration date"

Page 2, replace lines 4 through 13 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$62,782,944	\$7,034,166	\$69,817,110
Operating expenses	125,299,436	23,752,416	149,051,852
Capital assets	10,000	0	10,000
Grants	441,420,827	7,455,348	448,876,175
Grants - medical assistance	<u>2,373,678,247</u>	<u>220,366,802</u>	<u>2,594,045,049</u>
Total all funds	\$3,003,191,454	\$258,608,732	\$3,261,800,186
Less estimated income	<u>1,945,157,519</u>	<u>82,084,234</u>	<u>2,027,241,753</u>
Total general fund	\$1,058,033,935	\$176,524,498	\$1,234,558,433"

Page 3, replace lines 1 through 6 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$1,313,081,350	\$205,008,126	\$1,518,089,476
Grand total special funds	<u>2,169,380,782</u>	<u>276,092,520</u>	<u>2,445,473,202</u>
Grand total all funds	\$3,482,462,132	\$481,100,646	\$3,963,562,778
Full-time equivalent positions	2,162.23	160.00	2,322.23"

Page 5, after line 4, insert:

"SECTION 5. AMENDMENT. Section 50-24.1-31 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-31. Optional medical assistance for families of children with disabilities. The department of human services shall establish and implement a buyin program under the federal Family Opportunity Act enacted as part of the Deficit Reduction Act of 2005 [Pub. L. 109-171; 120 Stat. 4; 42 U.S.C. 1396] to provide medical assistance and other health coverage options to families of children with disabilities and whose net income does not exceed two hundred fifty percent of the federal poverty line."

Page 5, line 9, overstrike "of human services"

Page 6, line 19, overstrike "of human services"

Page 6, after line 22, insert:

SECTION 7. 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 January 1, 2014, through July 31, 2019) – 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 level, ~~based on modified-adjusted-gross income~~ line published by the federal office of management and budget applicable to the household size.
2. The department of ~~human services~~ 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. ~~The department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.~~
4. ~~The contract between the department and the private carrier must:~~
 - a. ~~Provide a reimbursement methodology for all medications and dispensing fees which identifies the minimum amount paid to pharmacy providers for each medication. The reimbursement methodology, at a minimum, must:~~
 - (1) ~~Be available on the department's website; and~~
 - (2) ~~Encompass all types of pharmacy providers regardless of whether the pharmacy benefits are being paid through the private carrier or contractor or subcontractor of the private carrier under this section.~~
 - b. ~~Provide full transparency of all costs and all rebates in aggregate.~~
 - c. ~~Allow an individual to obtain medication from a pharmacy that provides mail order service; however, the contract may not require mail order to be the sole method of service and must allow for all contracted pharmacy providers to dispense any and all drugs included in the benefit plan and allowed under the pharmacy provider's license.~~

- ~~d. — Ensure that pharmacy services obtained in jurisdictions other than this state and its three contiguous states are subject to prior authorization and reporting to the department for eligibility verification.~~
- ~~e. — Ensure the payments to pharmacy providers do not include a required payback amount to the private carrier or one of the private carrier's contractors or subcontractors which is not representative of the amounts allowed under the reimbursement methodology provided in subdivision a.~~
- ~~5. — 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.~~
- ~~6. — Provider reimbursement rate information received by the department under this section and any information provided to the department of human services or any audit firm by a pharmacy benefit manager 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 8. AMENDMENT. Section 50-24.4-06 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-06. Rate determination.

1. The department shall determine prospective payment rates for resident care costs. The department shall develop procedures for determining operating cost payment rates that take into account the mix of resident needs and other factors as determined by the department.
2. The department shall establish, by rule, limitations on compensation recognized in the historical base for top management personnel. Compensation for top management personnel must be categorized as a general and administrative cost and is subject to any limits imposed on that cost category.

3. For purposes of determining rates, the department shall:
 - a. Include, contingent upon approval of the Medicaid state plan by the centers for Medicare and Medicaid services, allowable bad debt expenses in an amount not to exceed one hundred eighty days of resident care per year or an aggregate of three hundred sixty days of resident care for any one individual; and
 - b. Include allowable bad debt expenses in the ~~property~~indirect cost category in the report year in which the bad debt is determined to be uncollectible with no likelihood of future recovery.
 - c. Notwithstanding section 50-24.4-07, include as an allowable cost any tax paid by a basic care or nursing facility due to provisions of 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].”

Page 7, line 16, remove “a”

Page 7, line 16, remove the second “service”

Page 7, line 17, replace “redesign project” with “and human services”

Page 7, line 24, remove the second “and”

Page 7, line 25, remove “implement”

Page 7, line 28, replace “use of” with “potential need for”

Page 8, line 2, remove the second “and”

Page 8, line 4, after “centers” insert “; and

5. The potential use of available Medicaid authorities, including waivers or state plan amendments”

Page 8, remove lines 5 and 6

Page 8, line 7, remove “Medicaid demonstration waiver.”

Page 10, after line 8, insert:

“SECTION 23. EXEMPTION. The sum of \$728,207 of general funds appropriated for the department’s operating expenses for legal unit advisory in chapter 11 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to be used for the Ireland lawsuit or settlement thereof during the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 24. EXEMPTION. The sum of \$150,000 of general funds appropriated for the purpose of establishing a children’s prevention and early intervention behavioral

health services pilot project in chapter 333 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to be used for the completion of the children’s prevention and early intervention behavioral health services pilot project during the biennium beginning July 1, 2019, and ending June 30, 2021.”

Page 11, line 24, after “after” insert “dates of service”

Page 11, line 31, after “after” insert “dates of service”

Page 12, after line 5, insert:

SECTION 35. IMPLEMENTATION OF 1915i MEDICAID STATE PLAN. The department of human services shall implement and manage a 1915i Medicaid state plan amendment for children and adults, for the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 36. HOME AND COMMUNITY-BASED SERVICES TARGETED POPULATION. The department of human services shall adopt rules, on or before January 1, 2021, establishing a process and requirements to involve public and private entities in helping to identify individuals who are at serious risk of accessing Medicaid-funded long-term care in a nursing facility and inform them about home and community-based services options.

SECTION 37. AUTISM SPECTRUM DISORDER TASK FORCE. The department shall consult with the autism spectrum disorder task force at the November 2019 task force meeting to evaluate biennium autism spectrum disorder Medicaid waiver expenditures to date. Based on input from the task force, the department may expand the number of slots or increase the ages covered by the autism spectrum disorder Medicaid waiver for the remainder of the 2019-2021 biennium.

SECTION 38. AUTISM SPECTRUM DISORDER VOUCHER PROGRAM. The department shall propose changes to North Dakota administrative code to seek additional flexibility for the administration of the autism spectrum disorder voucher program, to ensure more families can be served with the appropriations available. The proposed North Dakota administrative code changes should consider changes that include a voucher that is solely for technology support and one that is for in-home supports; adding case management or parent to parent support as an allowable service for voucher funds; and reducing the amount of time during which a household must use approved voucher funds.”

Page 12, after line 17, insert:

SECTION 41. EFFECTIVE DATE. Section 7 of this Act becomes effective on January 1, 2020. Section 35 of this Act becomes effective on July 1, 2020.

SECTION 42. EXPIRATION DATE. Section 6 of this Act is effective through December 31, 2019, and after that date is ineffective.”

Page 12, line 19, replace “21” with “26”

Renumber accordingly