

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE BILL NO. 2033
(Legislative Council)
(Budget Committee on Long-Term Care)

AN ACT to create and enact a new subsection to section 50-24.4-19 of the North Dakota Century Code, relating to prohibited practices of nursing homes; to amend and reenact section 50-24.4-01 of the North Dakota Century Code, relating to nursing facility rates; to repeal section 50-06-14.3 of the North Dakota Century Code, relating to basic care rates; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-24.4-01. Definitions. For the purposes of this chapter:

1. "Actual allowable historical operating cost per diem" means the per diem operating costs allowed by the department for the most recent reporting year.
2. "Actual resident day" means a billable, countable day as defined by the department.
3. "Department" means the department of human services.
4. "Depreciable equipment" means the standard movable resident care equipment and support service equipment generally used in long-term care facilities.
5. "Direct care costs" means the cost category for allowable nursing and therapy costs.
6. "Final rate" means the rate established after any adjustment by the department, including; ~~but not limited to;~~ adjustments resulting from cost report reviews and audits.
7. "Fringe benefits" means workers' compensation insurance, group health or dental insurance, group life insurance, retirement benefits or plans, and uniform allowances, and medical services furnished at nursing home expense.
8. "General and administrative costs" means all allowable costs for administering the facility, including, ~~but not limited to:~~ salaries of administrators, assistant administrators, accounting personnel, data processing personnel, security personnel, and all clerical personnel; board of directors' fees; business office functions and supplies; travel, except as necessary for training programs for dietitians, nursing personnel and direct resident care related personnel required to maintain licensure, certification, or professional standards requirements; telephone and telegraph; advertising; membership dues and subscriptions; postage; insurance, except as included as a fringe benefit ~~under subsection 6;~~ professional services such as legal, accounting, and data processing services; central or home office costs; management fees; management consultants; employee training, for any top management personnel and for other than direct resident care related personnel; and business meetings and seminars.
9. "Historical operating costs" means the allowable operating costs incurred by the facility during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the department has reviewed those costs and determined them to be allowable costs under the medical assistance program, and after the department has applied appropriate limitations such as the limit on administrative costs.

10. "Indirect care costs" means the cost category for allowable administration, plant, housekeeping, medical records, chaplain, pharmacy, and dietary, exclusive of food costs.
11. "Managed care organization" means a medicaid managed care organization as that term is defined in section 1903(m) of the Social Security Act [42 U.S.C. 1396b(m)].
- ~~12.~~ 12. "Nursing home" means a facility, not owned or administered by the state government, ~~described~~ defined in subsection 3 of section 43-34-01 or a facility owned or administered by the state, which agrees to accept a rate established under this chapter.
- ~~42.~~ 13. "Operating costs" means the day-to-day costs of operating the facility in compliance with licensure and certification standards.
- ~~43.~~ 14. "Other direct care costs" means the cost category for allowable activities, social services, laundry, and food costs.
- ~~44.~~ 15. "Payment rate" means the rate determined under section 50-24.4-06.
- ~~45.~~ 16. "Payroll taxes" means the employer's share of Federal Insurance Contributions Act taxes, governmentally required retirement contributions, and state and federal unemployment compensation taxes.
- ~~46.~~ 17. "Private-paying resident" means a nursing home resident on whose behalf the nursing home is not receiving medical assistance payments and whose payment rate is not established by any governmental entity with ratesetting authority, including the veterans' administration or medicare, or whose payment rate is not negotiated by any managed care organization contracting with a facility to provide services for the resident.
- ~~47.~~ 18. "Rate year" means the fiscal year for which a payment rate determined under this chapter is effective, from January first to the next December thirty-first.
- ~~48.~~ 19. "Real estate" means improvements to real property and attached fixtures used directly for resident care.
- ~~49.~~ 20. "Reporting year" means the period from July first to June thirtieth, immediately preceding the rate year, for which the nursing home submits reports required under this chapter.
- ~~20.~~ 21. "Top management personnel" means owners, board members, corporate officers, general, regional, and district managers, administrators, nursing home administrators, and ~~any~~ other ~~person~~ persons performing functions ordinarily performed by such personnel.

SECTION 2. A new subsection to section 50-24.4-19 of the North Dakota Century Code is created and enacted as follows:

Charging a managed care organization a rate that is less than the rate approved by the department for a medical assistance recipient in the same classification.

SECTION 3. REPEAL. Section 50-06-14.3 of the 1997 Supplement to the North Dakota Century Code is repealed.

SECTION 4. EMERGENCY - EFFECTIVE DATE. Section 3 of this Act is declared to be an emergency measure and is effective July 1, 1999.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2033 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 94 Nays 1 Absent 3

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at ___ o'clock _____ M.

Secretary of State