

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1333

Introduced by

Representatives Keiser, Berg

1 A BILL for an Act to amend and reenact sections 65-02-08, 65-02-20, and 65-02-21 of the
2 North Dakota Century Code, relating to workers' compensation medical and hospital fee
3 schedules and workers' compensation managed care; and to repeal sections 65-02-19 and
4 65-05-07.1 of the North Dakota Century Code, relating to workers' compensation medical and
5 hospital fee schedules and workers' compensation managed care.

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

7 **SECTION 1. AMENDMENT.** Section 65-02-08 of the 1997 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **65-02-08. Rulemaking power of the bureau - Fees prescribed by bureau.** The
10 bureau shall adopt rules necessary to carry out this title. All fees on claims for legal, medical,
11 and hospital goods and services rendered provided under this title to an injured employee must
12 be in accordance with schedules of fees adopted by the bureau. ~~Fee schedules for medical~~
13 ~~and hospital services must incorporate cost saving measures and must be submitted to and~~
14 ~~approved by the committee on administrative rules before submission to the legislative council~~
15 ~~for publication.~~ Before the effective date of any adoption of, or change to, a fee schedule, the
16 bureau shall hold a public hearing, which is not subject to chapter 28-32. The bureau shall
17 establish, by administrative rule, costs payable, maximum costs, a reasonable maximum hourly
18 rate, and a maximum fee to compensate an injured employee's attorney for legal services
19 following issuance of an administrative order reducing or denying benefits. The bureau shall
20 issue a decision within sixty days of the date when all elements of initial filing or notice of
21 reapplication of claim have been satisfied or a claim for additional benefits over and above
22 benefits previously awarded has been made. Satisfaction of elements of filing must be defined
23 by administrative rule. The bureau shall pay an injured employee's attorney's fees and costs
24 from the bureau general fund. Except for an initial determination of compensability, an

1 attorney's fee may not exceed twenty percent of the amount awarded, subject to a maximum
2 fee set by administrative rule. The bureau shall pay an attorney's fees and costs when:

3 1. The employee has prevailed in binding dispute resolution under section 65-02-20.

4 2. The employee has prevailed after an administrative hearing under chapter 28-32.

5 An injured employee has prevailed only when an additional benefit, previously denied, is paid.

6 An injured employee does not prevail on a remand for further action or proceedings unless that
7 employee ultimately receives an additional benefit as a result of the remand. This section does
8 not prevent an injured employee or an employer from hiring or paying an attorney; however, the
9 employee's attorney may not seek or obtain costs or attorney's fees from both the bureau and
10 the employee relative to the same claim. All disputes relating to payment or denial of an
11 attorney's fee or costs must be submitted to the hearing officer or arbitrator for decision, but a
12 hearing officer or arbitrator may not order that the maximum fee be exceeded.

13 **SECTION 2. AMENDMENT.** Section 65-02-20 of the 1997 Supplement to the North
14 Dakota Century Code is amended and reenacted as follows:

15 **65-02-20. Bureau to establish managed care program.** The bureau shall establish a
16 managed care program ~~with a third party administrator, including utilization review and bill~~
17 review, to effect the best medical solution for an injured employee. ~~The managed care system~~
18 ~~must allow for a third party administrator to direct the program for medical care of the injured~~
19 ~~employee in a cost-effective manner~~ upon a finding by the bureau that the employee suffered a
20 compensable injury. The ~~managed care administrator program~~ shall operate according to
21 guidelines adopted by the bureau ~~to ensure that an injured employee receives appropriate~~
22 ~~medical treatment in a cost-effective manner. The managed care administrator and shall assist~~
23 ~~the bureau in the~~ provide for medical management of claims within the bounds of workers'
24 compensation law. Information compiled and analysis performed pursuant to a managed care
25 program which relate to patterns of treatment, cost, or outcomes by health care providers are
26 confidential and are not open to public inspection to the extent the information and analysis
27 identify a specific health care provider, except to the specific health care provider, bureau
28 employees, or persons rendering assistance to the bureau in the administration of this title. If
29 an employee, employer, or medical provider disputes ~~the recommendation of the a managed~~
30 ~~care administrator decision~~, the employee, employer, or medical provider ~~may~~ shall request
31 binding dispute resolution on the ~~recommendation~~ decision. The bureau shall make rules

1 providing for the procedures for dispute resolution. Dispute resolution under this section is not
2 subject to chapter 28-32 or section 65-01-16 or 65-02-15. A dispute resolution decision under
3 this section requested by a medical provider concerning payment for medical treatment already
4 provided or a request for diagnostic tests or treatment is not reviewable by any court. A dispute
5 resolution decision under this section requested by an employee is reviewable by a court only if
6 medical treatment has been denied to the employee. A dispute resolution decision under this
7 section requested by an employer is reviewable by a court only if medical treatment is awarded
8 to the employee. The dispute resolution decision may be reversed only if the court finds that
9 there has been an abuse of discretion ~~by~~ in the dispute resolution ~~panel~~ process. Any person
10 providing binding dispute resolution services under this section is exempt from civil liability
11 relating to the binding dispute resolution process and decision.

12 **SECTION 3. AMENDMENT.** Section 65-02-21 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **65-02-21. Contract for administration of managed care program.** The bureau ~~shall~~
15 may contract for the services of a third-party administrator to implement ~~the~~ a managed care
16 program. ~~The bureau shall solicit by soliciting bids for these administrative services. The~~
17 ~~solicitation must include~~ including a description of the program and the services expected of the
18 managed care administrator. The bureau shall award an administrative services contract to the
19 bidder who will best serve the interests of the bureau and the employees under this title. The
20 contract must be for the period of a biennium. The bureau may renew, renegotiate, or rebid a
21 contract based upon contract performance, cost, and the best interests of an employee who
22 suffers a compensable injury. ~~The bureau shall rebid the contract for the biennium beginning~~
23 ~~July 1, 1995, and shall rebid subsequent contracts at least every four years.~~

24 **SECTION 4. REPEAL.** Sections 65-02-19 and 65-05-07.1 of the North Dakota Century
25 Code are repealed.