

Introduced by

Representatives Price, Kreidt, Nottestad, Weisz

Senators Brown, Dever

1 A BILL for an Act to create and enact chapter 26.1-53 of the North Dakota Century Code,
2 relating to duties of providers and marketers of discount medical plans and cards; and to
3 declare an emergency.

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

5 **SECTION 1.** Chapter 26.1-53 of the North Dakota Century Code is created and
6 enacted as follows:

7 **26.1-53-01. Definitions.** As used in this chapter, unless the context otherwise
8 requires:

- 9 1. "Discount medical plan" means any card, program, device, or mechanism that is
10 not insurance which purports to offer discounts or access to discounts from a
11 provider without recourse to the discount medical plan.
- 12 2. "Discount medical plan organization" means a person that, in exchange for fees,
13 dues, charges, or other consideration, provides access for plan members to a
14 discount medical plan.
- 15 3. "Marketer" means a person that markets, promotes, sells, or distributes a discount
16 medical plan.
- 17 4. "Medical services" means any care, service, or treatment of illness or dysfunction
18 of, or injury to, the human body, including physician care, inpatient care, hospital
19 surgical services, emergency services, ambulance services, dental care services,
20 vision care services, mental health services, substance abuse services,
21 chiropractic services, podiatric care services, and laboratory services. The term
22 does not include pharmaceutical supplies or prescriptions.
- 23 5. "Member" means any person that pays fees, dues, charges, or other consideration
24 for the right to receive the benefits of a discount medical plan.

- 1 6. "Provider" means any person that is contracted, directly or indirectly, with a
2 discount medical plan organization to provide medical services to members.
3 7. "Provider network" means a person that negotiates on behalf of more than one
4 provider with a discount medical plan organization to provide medial services to
5 members.

6 **26.1-53-02. Prohibited activities of a discount medical plan organization or**

7 **marketer.** A discount medical plan organization may not:

- 8 1. Use in its advertisements, marketing material, brochures, and discount cards the
9 term "insurance" except as otherwise provided under this chapter.
10 2. Use in its advertisements, marketing material, brochures, and discount cards the
11 terms "health plan", "coverage", "copay", "copayments", "preexisting conditions",
12 "guaranteed issue", "premium", "PPO", "preferred provider organization", or other
13 terms in a manner that could reasonably mislead a person into believing the
14 discount medical plan is insurance.
15 3. Pay providers any fees for medical services, unless the organization is an
16 authorized third-party administrator.

17 **26.1-53-03. Disclosures.**

- 18 1. A discount medical plan organization or marketer shall disclose clearly and
19 conspicuously in writing to any prospective member and on any advertisements,
20 marketing materials, or brochures relating to a discount medical plan:
21 a. That the plan is not an insurance policy.
22 b. That the plan provides discounts at certain health care providers for medical
23 services.
24 c. That the plan member is obligated to pay for all health care services but will
25 receive a discount from those health care providers that have contracted with
26 the discount medical plan organization.
27 d. The name, address, and telephone number of the discount medical plan
28 organization and the marketer.
29 e. The cancellation and refund rights provided under section 26.1-53-08.
30 2. Any advertisements, marketing materials, or brochures relating to a discount
31 medical plan which are transmitted to the public through the internet or television

- 1 must state that the plan is not an insurance policy and that the plan provides
2 discounts at certain health care providers for medical services.
- 3 3. The discount medical plan organization or marketer in solicitations conducted
4 through telemarketing shall disclose orally to prospective members the required
5 disclosures provided under subsection 1.

6 **26.1-53-04. Provider agreements.**

- 7 1. All providers offering medical services to members under a discount medical plan
8 shall provide such services pursuant to a written agreement with the discount
9 medical plan organization. The agreement may be entered directly by the provider
10 or by a provider network to which the provider belongs.
- 11 2. A provider agreement must provide the following:
- 12 a. A list of the services and products to be provided at a discount.
- 13 b. The amount or amounts of the discounts or, alternatively, a fee schedule that
14 reflects the provider's discounted rates.
- 15 c. That the provider will not charge members more than the discounted rates.
- 16 3. A provider agreement between a discount medical plan organization and a
17 provider network must require that the provider network have written agreements
18 with the provider network's providers which:
- 19 a. Comply with subsection 2.
- 20 b. Authorize the provider network to contract with the discount medical plan
21 organization on behalf of the provider.
- 22 c. Require the provider network to maintain an up-to-date list of the provider
23 network's contracted providers and to provide that list on a quarterly basis to
24 the discount medical plan organization.
- 25 4. The discount medical plan organization shall maintain a copy of each active
26 provider agreement and provide copies of the agreements to the commissioner,
27 upon written request.

28 **26.1-53-05. Provider name listing.** Each discount medical plan organization shall
29 maintain an up-to-date list of the names and addresses of the providers with which the discount
30 medical plan organization has contracted, and the discounts provided by those providers, on a
31 web site on the internet, the address of which must be prominently displayed on all the discount

1 medical plan organization advertisements, marketing materials, brochures, and discount cards.
2 This section applies to those providers with which the discount medical plan organization has
3 contracted directly, as well as those that are members of a provider network with which the
4 discount medical plan organization has contracted.

5 **26.1-53-06. Marketing of discount medical plans.**

- 6 1. All advertisements, marketing materials, brochures, and discount cards used by
7 marketers must be approved in writing for such use by the discount medical plan
8 organization.
9 2. The discount medical plan organization must have an executed written agreement
10 with a marketer before the marketer's marketing, promoting, selling, or distributing
11 the discount medical plan.

12 **26.1-53-07. Bundling discount medical plans with insurance products prohibited.**

13 If a marketer or discount medical plan organization solicits, markets, or sells a discount medical
14 plan together with any insurance product, the marketer or organization shall disclose clearly
15 and conspicuously that the plan is not insurance.

16 **26.1-53-08. Cancellation and refunds.**

- 17 1. A discount medical plan shall permit members to cancel at any time. If
18 cancellation occurs within thirty days of the member receiving written notice of
19 cancellation rights, the discount medical plan shall provide within thirty days of
20 notice of cancellation a full refund to the canceling member, except for a nominal
21 fee associated with the enrollment cost up to a maximum of fifty dollars. In the
22 event of cancellation of the membership by either party, if a discount medical plan
23 charges for a time period in excess of one month, the plan shall make a pro rata
24 refund to the member.
25 2. The discount medical plan organization or marketer shall provide the member with
26 written notice of cancellation rights within ten business days of purchase. The
27 notice of cancellation rights must be clearly and conspicuously disclosed and must
28 include instructions for the member to cancel the plan. The instructions must be
29 made available to the commissioner upon request.
30 3. Cancellation occurs when notice of cancellation is given to the discount medical
31 plan organization or marketer.

1 4. Notice of cancellation is deemed given when delivered in hand, deposited in a
2 mailbox, properly addressed and postage prepaid, or e-mailed to the e-mail
3 address of the discount medical plan organization or marketer.

4 **26.1-53-09. Enforcement - Powers - Remedies - Penalties.** The commissioner or
5 the attorney general may enforce this chapter. The attorney general, in enforcing this chapter,
6 has all the powers provided in this chapter or chapter 51-15 and may seek all remedies in this
7 chapter or chapter 51-15. A violation of this chapter is deemed a violation of chapter 51-15.
8 The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in
9 addition to all other causes of action, remedies, and penalties under chapter 51-15, or
10 otherwise provided by law.

11 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.