

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2318

Introduced by

Senators Dever, Erbele, Heckaman, J. Lee

Representatives Kreidt, L. Meier

1 A BILL for an Act to create and enact section 26.1-18.1-03.1 of the North Dakota Century
2 Code, relating to bond requirements for qualified programs of all-inclusive care or the elderly; to
3 amend and reenact section 26.1-18.1-01 of the North Dakota Century Code, relating to the
4 regulation of qualified programs of all-inclusive care for the elderly; and to provide an expiration
5 date.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-18.1-01 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **26.1-18.1-01. Definitions.**

- 10 1. "Basic health care services" means the following medically necessary services:
11 preventive care, emergency care, inpatient and outpatient hospital and physician
12 care, diagnostic laboratory, and diagnostic and therapeutic radiological services.
- 13 2. "Capitated basis" means fixed per member per month payment or percentage of
14 premium payment wherein the provider assumes the full risk for the cost of
15 contracted services without regard to the type, value, or frequency of services
16 provided. For purposes of this definition, capitated basis includes the cost
17 associated with operating staff model facilities.
- 18 3. "Carrier" means a health maintenance organization, an insurer, a nonprofit hospital
19 and medical service corporation, or other entity responsible for the payment of
20 benefits or provision of services under a group contract.
- 21 4. "Copayment" means an amount an enrollee must pay in order to receive a specific
22 service which is not fully prepaid.

- 1 5. "Deductible" means the amount an enrollee is responsible to pay out of pocket
2 before the health maintenance organization begins to pay the costs associated
3 with treatment.
- 4 6. "Enrollee" means an individual who is covered by a health maintenance
5 organization.
- 6 7. "Evidence of coverage" means a statement of the essential features and services
7 of the health maintenance organization coverage which is given to the subscriber
8 by the health maintenance organization or by the group contractholder.
- 9 8. "Extension of benefits" means the continuation of coverage under a particular
10 benefit provided under a contract following termination with respect to an enrollee
11 who is totally disabled on the date of termination.
- 12 9. "Grievance" means a written complaint submitted in accordance with the health
13 maintenance organization's formal grievance procedure by or on behalf of the
14 enrollee regarding any aspect of the health maintenance organization relative to
15 the enrollee.
- 16 10. "Group contract" means a contract for health care services which by its terms limits
17 eligibility to members of a specified group. The group contract may include
18 coverage for dependents.
- 19 11. "Group contractholder" means the person to which a group contract has been
20 issued.
- 21 12. "Health maintenance organization" means any person that undertakes to provide
22 or arrange for the delivery of basic health care services to enrollees on a prepaid
23 basis, except for enrollee responsibility for copayments or deductibles or both.
24 However, a qualified program of all-inclusive care for the elderly is not a health
25 maintenance organization.
- 26 13. "Health maintenance organization producer" means an insurance producer, as
27 defined in section 26.1-26-02, who solicits, negotiates, effects, procures, delivers,
28 renews, or continues a policy or contract for health maintenance organization
29 membership, or who takes or transmits a membership fee or premium for such a
30 policy or contract, other than for that person, or a person who advertises or
31 otherwise holds out to the public as such.

- 1 14. "Individual contract" means a contract for health care services issued to and
2 covering an individual. The individual contract may include dependents of the
3 subscriber.
- 4 15. "Insolvent" or "insolvency" means that the organization has been declared
5 insolvent and placed under an order of liquidation by a court of competent
6 jurisdiction.
- 7 16. "Managed hospital payment basis" means agreements wherein the financial risk is
8 primarily related to the degree of utilization rather than to the cost of services.
- 9 17. "Net worth" means the excess of total admitted assets over total liabilities, but the
10 liabilities do not include fully subordinated debt.
- 11 18. "Participating provider" means a provider as defined in subsection ~~20~~ 19 who,
12 under an express or implied contract with the health maintenance organization or
13 with its contractor or subcontractor, has agreed to provide health care services to
14 enrollees with an expectation of receiving payment, other than copayment or
15 deductible, directly or indirectly from the health maintenance organization.
- 16 19. ~~"Person" means any natural or artificial person including individuals, partnerships,
17 associations, trusts, or corporations.~~
- 18 ~~20.~~ "Provider" means any physician, hospital, or other person licensed or otherwise
19 authorized to furnish health care services.
- 20 20. "Qualified program of all-inclusive care for the elderly" means a program that:
- 21 a. Is sponsored by a religious or charitable organization that is itself or is
22 controlled by an entity organized under section 501(c)(3) of the Internal
23 Revenue Code [26 U.S.C. 501(c)(3)];
- 24 b. Has been approved by the centers for medicare and medicaid services of the
25 United States department of health and human services to operate, and is
26 currently operating as, a program of all-inclusive care for the elderly; and
- 27 c. Has revenues from private pay sources which do not exceed ten percent of
28 the program's total revenues.
- 29 21. "Replacement coverage" means the benefits provided by a succeeding carrier.
- 30 22. "Subscriber" means an individual whose employment or other status, except family
31 dependency, is the basis for eligibility for enrollment in the health maintenance

1 organization, or in the case of an individual contract, the person in whose name
2 the contract is issued.

3 23. "Uncovered expenditures" means the costs to the health maintenance organization
4 for health care services that are the obligation of the health maintenance
5 organization, for which an enrollee may also be liable in the event of the health
6 maintenance organization's insolvency and for which no alternative arrangements
7 have been made that are acceptable to the commissioner.

8 **SECTION 2.** Section 26.1-18.1-03.1 of the North Dakota Century Code is created and
9 enacted as follows:

10 **26.1-18.1-03.1. Bond or insurance requirement.** A qualified program of all-inclusive
11 care for the elderly that operates in this state shall maintain a surety bond, in the amount of two
12 hundred fifty thousand dollars. Any surety bond issued under this section must authorize
13 recovery by the commissioner on behalf of any person in this state that sustained damages as
14 the result of unfair practices, conviction of fraud, or failure by a qualified program of all-inclusive
15 care for the elderly to perform a contractual obligation owed to the person.

16 **SECTION 3. EXPIRATION DATE.** This Act is effective through July 31, 2011, and
17 after that date is ineffective.