

**HOUSE BILL NO. 1475**

Introduced by

Representatives Carlson, Belter, Kasper, Keiser, Onstad

Senators Klein, Schneider, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact sections 54-52.1-05.1 and 54-52.1-05.2 of the North  
2 Dakota Century Code, relating to the public employees retirement system uniform group  
3 insurance program health insurance benefits coverage policy and contract; to amend and  
4 reenact sections 54-52.1-04 and 54-52.1-05 of the North Dakota Century Code, relating to the  
5 uniform group insurance program health insurance benefits coverage policy and contract; to  
6 provide a statement of legislative intent; to provide for an exception; and to declare an  
7 emergency.

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

9 **SECTION 1. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **54-52.1-04. Board to contract for insurance.**

- 12 1. The board shall receive bids for the providing of hospital benefits coverage, medical  
13 benefits coverage, life insurance benefits coverage for a specified term, and employee  
14 assistance program services; may receive bids separately for prescription drug  
15 coverage; and shall accept one or more bids of and contract with the carriers that in  
16 the judgment of the board best serves the interests of the state and its eligible  
17 employees. ~~Solicitations~~
- 18 2. ~~Except as provided under section 54-52.1-04.2, a solicitation for health insurance~~  
19 ~~benefits coverage must be made not later than ninety days no less than six months~~  
20 ~~before the expiration of an~~the existing uniform group insurance ~~health insurance~~  
21 ~~benefits coverage contract and for all other contracts under this chapter must be made~~  
22 ~~no less than ninety days before the expiration of the existing uniform group insurance~~  
23 contract. Bids must be solicited by advertisement in a manner selected by the board  
24 ~~that~~which will provide reasonable notice to prospective bidders. In preparing bid

1 proposals and evaluating bids, the board may utilize the services of consultants on a  
2 contract basis in order that the bids received may be uniformly compared and properly  
3 evaluated.

4 3. In determining which bid, if any, will best serve the interests of eligible employees and  
5 the state, the board shall give adequate consideration to the following factors:

6 1-a. The economy to be effected.

7 2-b. The ease of administration.

8 3-c. The adequacy of the coverages.

9 4-d. The adequacy of the in-state and out-of-state network coverage.

10 e. The financial position of the carrier, with special emphasis as to its solvency.

11 5-f. The reputation of the carrier and any other information that is available tending to  
12 show past experience with the carrier in matters of claim settlement,  
13 underwriting, and services.

14 4. The board may reject any or all bids and, in the event it does so, shall again solicit  
15 bids as provided in this section. ~~The~~if the board solicits bids under this subsection, it  
16 may be necessary for the board to expedite the bidding process. If the board  
17 expedites the bidding process under this subsection, the board shall notify the  
18 legislative management of the expedited process and shall keep the legislative  
19 management apprised of the status of the expedited process.

20 5. As provided under section 54-52.1-04.2, the board may establish a plan of  
21 self-insurance for providing health insurance benefits coverage only under an  
22 administrative services only (ASO) contract or a third-party administrator (TPA)  
23 contract.

24 **SECTION 2. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **54-52.1-05. Provisions of contract - Report to legislative management.**

27 1. Each uniform group insurance contract entered into by the board must be consistent  
28 with the provisions of this chapter, must be signed for the state of North Dakota by the  
29 chairman of the board, and must include the following:

30 1-a. As many optional coverages as deemed feasible and advantageous by the  
31 board.

- 1           2-b. A detailed statement of benefits offered, including maximum limitations and  
2                   exclusions, and such other provisions as the board may deem necessary or  
3                   desirable.
- 4           c. ~~A provision that a determination by the board that the carrier violated the~~  
5                   ~~terms breached a material term of the contract or violated a material provision of~~  
6                   ~~this chapter which has not been remedied within thirty-one days of the~~  
7                   ~~determination will result in either a termination of the contract which is effective~~  
8                   ~~one hundred eighty days following that determination and that the termination is~~  
9                   ~~final and is not appealable~~ or will result in a decrease of three percent of the  
10                   monthly premium for each insured contract for each month the breach or violation  
11                   continues; a provision that the board has discretion to determine which remedy  
12                   under this provision will be pursued; and a provision that the board's  
13                   determination under this provision is final and not appealable. The provisions  
14                   under this subdivision are in addition to any other remedies that may be available  
15                   in the case of breach of the contract or violation of the law.
- 16        2. a. A contract entered by the board under this section for health insurance benefits  
17                   coverage must be entered no less than three months before the expiration of the  
18                   existing contract. No less than sixty days before entering a contract under this  
19                   subsection, the board shall make a written report to the legislative management  
20                   notifying the legislative management of the status of the solicitation, bidding, and  
21                   selection of a carrier, including receipt of any material the board may have  
22                   received from a consultant to assist the board in evaluating the bids.
- 23                   b. If any of the information provided by the board to the legislative management is a  
24                   confidential record, the board shall inform the legislative management of the  
25                   confidential nature of any such record.
- 26                   c. If the legislative management discusses any of the confidential information  
27                   received under this subsection, the discussion must be held in an executive  
28                   session.
- 29        3. This section applies to all policies that become effective after June 30, 2015.

30        **SECTION 3.** Section 54-52.1-05.1 of the North Dakota Century Code is created and  
31        enacted as follows:

1 **54-52.1-05.1. Provisions of health insurance benefits coverage.**

2 1. The board contract for health insurance benefits coverage under this chapter must  
3 provide that for the duration of the term of that contract:

4 a. The contract must require the carrier process in-house its claims under the  
5 contract for in-state medical and hospital benefits.

6 b. The contract must provide:

7 (1) ~~The~~That except as necessary for treatment, payment, and operations, the  
8 carrier may not share identifiable or unidentifiable insured or provider data  
9 or information with a related or unrelated health care delivery entity.

10 (2) The carrier may not directly market to the insured ~~an identified~~ health care  
11 delivery entity or ~~an identified~~ health care provider. This paragraph limits a  
12 carrier's ability to market providers but does not limit a carrier's ability to  
13 market services.

14 c. The contract and related policy must provide adequate in-state and out-of-state  
15 network coverage.

16 2. If the board enters a contract for health insurance benefits coverage under this chapter  
17 with a carrier that has common ownership with a health care delivery entity, ~~annually~~  
18 ~~the insurance commissioner shall review~~for purposes of the carrier's negotiated  
19 provider discount rates ~~to ensure the rates~~with in-state providers:

20 a. For a provider that is a critical access hospital that does not have common  
21 ownership with the carrier, the negotiated provider discount rates may not be less  
22 than the negotiated provider discount rates the carrier has with the related health  
23 care delivery entity ~~are no more favorable than negotiated rates the carrier has~~  
24 ~~with other similarly situated providers~~that is a critical access hospital.

25 b. For a provider that is not a critical access hospital and that does not have  
26 common ownership with the carrier, the negotiated provider discount rates may  
27 not be less than the negotiated provider discount rates the carrier has with the  
28 related health care delivery entity that is not a critical access hospital.

29 3. This section applies to all policies that become effective after June 30, 2015.

30 **SECTION 4.** Section 54-52.1-05.2 of the North Dakota Century Code is created and  
31 enacted as follows:

1       **54-52.1-05.2. Health insurance benefits coverage - New carrier - Report to legislative**  
2 **management.**

3       1. This section applies if the board enters a contract for health insurance benefits  
4 coverage under this chapter which results in a new carrier. For the duration of the term  
5 of that contract, the contract and related policy:

6       a. Must provide for a seamless transition from the existing coverage to the new  
7 coverage.

8       b. ~~May not disrupt existing nor impede future provider relationships with insureds.~~

9 ~~c.~~ Must provide adequate in-state and out-of-state network coverage.

10       (1) If the carrier's in-state network coverage has fewer providers than the  
11 previous carrier's in-state network, the difference in covered providers may  
12 not exceed five percent of the state's previous carrier's in-state providers.

13       (2) If the carrier's out-of-state network coverage has fewer providers than the  
14 previous carrier's out-of-state network, the difference in covered providers  
15 may not exceed ten percent of the previous carrier's out-of-state providers.  
16 If the carrier does not meet this threshold level of required providers, until  
17 the carrier meets that threshold, the insured's liability for out-of-network  
18 services may not exceed what the insured's liability would have been if the  
19 services had been provided in-network.

20       (3) Adequate network coverage must include:

21       (a) A billing process that allows an in-network and an out-of-network  
22 provider to submit claims directly to the carrier; and

23       (b) An insured's unobstructed access to and choice of right to select any  
24 in-network providers provider of the insured's choice.

25 (4) For purposes of this subdivision, the date of measurement of the previous  
26 carrier's network coverage is the date the board signs the contract with the  
27 new carrier.

28 ~~d.c.~~ May not result in the insured being financially liable due to balance billing if in that  
29 instance the insured would not have been financially liable due to balance billing  
30 under the previous carrier received preauthorization.

1 ~~e.d.~~ May not require limit an insured's right to choose an in-state in-network  
2 provider or, regardless of whether the provider is in-state or out-of-state and may  
3 not require an insured receive a referral to see a specialist.

4 ~~f.e.~~ May not have a process for prior approval or preauthorization before benefits are  
5 available for services which is more restrictive than the previous policy or which  
6 covers more services than the previous policy.

7 ~~g.~~ May not have a process for preauthorization before services are provided which  
8 is more restrictive than the previous policy or which covers more services than  
9 the previous policy.

10 f. As part of a prior approval or preauthorization process, may not direct or redirect  
11 an insured to a specified provider or health care delivery entity.

12 2. Under this section, if a contract with a new carrier is renewed without soliciting bids,  
13 the contract and policy requirements under this section continue. If the contract is  
14 rebid, the contract and policy requirements under this section apply to the existing  
15 carrier and any new carrier unless before the solicitation, the board provides the  
16 legislative management a report on the proposed changes to the contract and related  
17 policy.

18 3. This section applies to all policies that become effective after June 30, 2015.

19 **SECTION 5. UNIFORM GROUP INSURANCE PROGRAM HEALTH INSURANCE POLICY**

20 **ELEMENTS - DELAY - LEGISLATIVE INTENT.** ~~if~~ For the uniform group insurance program  
21 health insurance policy beginning July 1, 2015, if the board determines compliance with this Act  
22 would result in an increase of more than ~~five percent~~ \$5,000,000 in the price of the accepted bid  
23 for the uniform group insurance program health insurance policy ~~as bid~~ for the 2015-17  
24 biennium, the public employee retirement system board shall initiate an expedited rebidding  
25 process for the contract and the carrier providing coverage at the time of that determination may  
26 continue under the existing contract until a new contract is finalized, but not to exceed nine  
27 months beyond the date the board made the determination.

28 **SECTION 6. EMPLOYEE BENEFITS PROGRAMS COMMITTEE - EXCEPTION.** This Act  
29 and any amendments to this Act are not subject to the requirements of section 54-35-02.4.

30 **SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.