

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED 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 for an exception; and to provide for application.

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

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

10 **54-52.1-04. Board to contract for insurance.**

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

1 contract basis in order that the bids received may be uniformly compared and properly
2 evaluated.

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

5 1-a. The economy to be effected.

6 2-b. The ease of administration.

7 3-c. The adequacy of the coverages.

8 4-d. The adequacy of the in-state and out-of-state network coverage.

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

10 5-f. The reputation of the carrier and any other information that is available tending to
11 show past experience with the carrier in matters of claim settlement,
12 underwriting, and services.

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

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

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

25 **54-52.1-05. Provisions of contract - Report to employee benefits programs**
26 **committee.**

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. In the case of health insurance benefits coverage, other than self-insurance
5 under section 54-52.1-04.2 or health insurance benefits coverage for retired
6 employees eligible for medicare, a provision requiring performance guarantees
7 and liquidated damages, as necessary, as determined by the board.
- 8 2. In the case of a contract entered by the board under this section for health insurance
9 benefits coverage:
- 10 a. The contract must be entered no less than three months before the expiration of
11 the existing contract.
- 12 b. No less than sixty days before entering a contract under this subsection, the
13 board shall make a written report to the employee benefits programs committee
14 notifying that committee of the status of the solicitation, bidding, and selection of
15 a carrier, including receipt of any material the board may have received from a
16 consultant to assist the board in evaluating the bids.
- 17 c. If any of the information provided by the board to the employee benefits
18 programs committee is a confidential or closed record, the board shall inform that
19 committee of the confidential or closed nature of any such record and the records
20 retain this confidential or closed status in the hands of the committee.
- 21 d. If the employee benefits programs committee discusses any of the confidential or
22 closed information received under this subsection, the discussion must be held in
23 an executive session. The board shall notify the employee benefits programs
24 committee if the board opens to the public a previously closed record the board
25 provided to the committee and upon receipt of such notice the record is no longer
26 a closed record in the hands of the committee.

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

29 **54-52.1-05.1. Provisions of health insurance benefits coverage.**

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

- 1 a. The contract must provide the carrier may not directly market to the insured an
2 identified health care delivery entity, an identified health care provider, or any
3 other identified provider of services, unless the board has preapproved such
4 marketing. In determining whether to approve a marketing request under this
5 subdivision, the board shall ensure the carrier is not unfairly favoring one provider
6 over another. This subdivision does not prevent a carrier from marketing that is
7 directly related to the health plan design or coverage.
- 8 b. The contract and related policy must provide adequate in-state and out-of-state
9 network coverage, as determined by the board.
- 10 2. The board contract for health insurance benefits coverage under this chapter must
11 provide:
- 12 a. That for purposes of the carrier's preferred provider arrangements with in-state
13 providers, the carrier shall comply with chapter 26.1-47, regarding preferred
14 provider organizations; and
- 15 b. That for purposes of the carrier's preauthorization and prior approval processes,
16 the carrier shall comply with section 26.1-36-03.1.
- 17 3. This section does not prevent the board from implementing managed care options,
18 such as an exclusive provider organization, health maintenance organization, or other
19 closed system, provided the insured's participation in the system is voluntary.
- 20 4. This section does not apply to a contract for a self-insurance plan under section
21 54-52.1-04.2 or health insurance benefits coverage for retired employees eligible for
22 medicare.

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

25 **54-52.1-05.2. Health insurance benefits coverage - New carrier - Report to employee**
26 **benefits programs committee.**

- 27 1. This section applies if the board enters a contract for health insurance benefits
28 coverage under this chapter which results in a new carrier. For the duration of the term
29 of that contract, the contract and related policy:
- 30 a. Must provide for a seamless transition from the existing coverage to the new
31 coverage.

- 1 b. Must provide adequate in-state and out-of-state network coverage, including a
2 billing process that allows an in-network and an out-of-network provider to submit
3 claims directly to the carrier; and an insured's right to select any in-network
4 provider of the insured's choice.
- 5 c. May not result in the insured being financially liable due to balance billing if the
6 insured received covered services from an in-network provider.
- 7 d. May not limit an insured's right to choose an in-network provider, regardless of
8 whether the provider is in-state or out-of-state, and may not require an insured
9 receive a referral to see an in-network specialist.
- 10 e. 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. Notwithstanding subsection 1, a carrier may advise an insured of a provider's network
13 status and of a provider's center of excellence status.
- 14 3. Under this section, if a contract with a new carrier is renewed without soliciting bids,
15 the contract and policy requirements under this section continue. If the contract is
16 rebid, the contract and policy requirements under this section apply to the existing
17 carrier and any new carrier unless before the solicitation, the board provides the
18 employee benefits programs committee a report on the proposed changes to the
19 contract and related policy.
- 20 4. This section does not prevent the board from implementing managed care options,
21 such as an exclusive provider organization, health maintenance organization, or other
22 closed system, provided the insured's participation in the system is voluntary.
- 23 5. This section does not apply to a contract for a self-insurance plan under section
24 54-52.1-04.2 or health insurance benefits coverage for retired employees eligible for
25 medicare.

26 **SECTION 5. EMPLOYEE BENEFITS PROGRAMS COMMITTEE - EXCEPTION.** During
27 the 2015 legislative session, this Act and any amendments to this Act are not subject to the
28 requirements of section 54-35-02.4.

29 **SECTION 6. APPLICATION.** Sections 1 through 4 of this Act apply to all contracts entered
30 on or after the effective date of this Act.