

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1039

Introduced by

Legislative Management

(Health Care Reform Review Committee)

1 A BILL for an Act to amend and reenact sections 26.1-36-08 and 26.1-36-09 of the North
2 Dakota Century Code, relating to health insurance coverage of substance abuse treatment; to
3 repeal section 26.1-36-08.1 of the North Dakota Century Code, relating to alternative health
4 insurance coverage of substance abuse treatment; and to provide for application.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-36-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-36-08. ~~Group health policy and health service contract substance~~Substance
9 abuse coverage.**

- 10 1. An insurance company, nonprofit health service corporation, or health maintenance
11 organization may not deliver, issue, execute, or renew any health insurance policy or
12 health service contract on ~~an individual, except for an individual guaranteed~~
13 renewable policies issued before July 1, 1997, group, blanket, franchise, or
14 association basis unless the policy or contract provides benefits, of the same type
15 offered under the policy or contract for other illnesses, for health services to any
16 individual covered under the policy or contract, for the diagnosis, evaluation, and
17 treatment of alcoholism, drug addiction, or other related illness, which benefits meet or
18 exceed the benefits provided in subsection 2.
- 19 2. The benefits must be provided for inpatient treatment, treatment by partial
20 hospitalization, residential treatment, and outpatient treatment:
- 21 a. In the case of benefits provided for inpatient treatment, the ~~benefits must be~~
22 ~~provided for a minimum of sixty days of services covered under this section and~~
23 ~~section 26.1-36-09 in any calendar year. Services provided under this subdivision~~

1 services must be provided by an addiction treatment program licensed under
2 chapter 50-31.

3 b. In the case of benefits provided for partial hospitalization, the benefits must be
4 provided ~~for a minimum of one hundred twenty days of services covered under~~
5 ~~this section and section 26.1-36-09 in any calendar year. Services provided~~
6 ~~under this subdivision must be provided~~ by an addiction treatment program
7 licensed under chapter 50-31. For services provided in regional human service
8 centers, charges must be reasonably similar to the charges for care provided by
9 hospitals as defined in this subsection.

10 c. ~~Benefits may also be provided for a combination of inpatient and partial-~~
11 ~~hospitalization treatment. For the purpose of computing the period for which~~
12 ~~benefits are payable, each day of inpatient treatment is equivalent to two days of~~
13 ~~treatment by partial hospitalization, provided that no more than forty-six days of~~
14 ~~the inpatient treatment benefits required by this section may be traded for~~
15 ~~treatment by partial hospitalization.~~ In the case of coverage for residential
16 treatment, the benefits must be provided by an addiction treatment program
17 licensed under chapter 50-31.

18 d. In the case of benefits provided for outpatient treatment, the ~~benefits must be~~
19 ~~provided for a minimum of twenty visits for services covered under this section in~~
20 ~~any calendar year, provided the diagnosis, evaluation, and treatment services~~
21 ~~are~~ must be provided within the scope of licensure by a licensed physician; or a
22 licensed psychologist ~~who is eligible for listing on the national register of health-~~
23 ~~service providers in psychology, or the treatment services are~~ must be provided
24 within the scope of licensure by a licensed addiction counselor. The insurance
25 company, nonprofit health service corporation, or health maintenance
26 organization may not establish a deductible or a copayment for the first five visits
27 in any calendar year, and may not establish a copayment greater than twenty
28 percent for the remaining visits. The deductible limitation of this subdivision does
29 not apply to a high-deductible health plan used to establish a health savings
30 account pursuant to and as defined in section 223 of the Internal Revenue Code
31 [26 U.S.C. 223].

- 1 e. If the services are provided by a provider outside a preferred provider network
2 without a referral from within the network, the insurance company, nonprofit
3 health service corporation, or health maintenance organization may establish a
4 copayment greater than twenty percent for only those visits after the first five
5 visits in any calendar year.
- 6 f. As used in this section and ~~section 26.1-36-08.1~~, partial hospitalization means
7 continuous treatment for at least three hours, but not more than twelve hours, in
8 any twenty-four-hour period and includes the medically necessary treatment
9 services provided by licensed professionals under the supervision of a licensed
10 physician.
- 11 3. This section does not prevent any insurance company, nonprofit health service
12 corporation, or health maintenance organization from issuing, delivering, or renewing,
13 at its option, any policy or contract containing provisions similar to those required by
14 this section, when the policy or contract is not subject to such provisions.

15 **SECTION 2. AMENDMENT.** Section 26.1-36-09 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **26.1-36-09. Group health policy and health service contract mental disorder**
18 **coverage.**

- 19 1. An insurance company, nonprofit health service corporation, or health maintenance
20 organization may not deliver, issue, execute, or renew any health insurance policy or
21 health service contract on a group or blanket or franchise or association basis unless
22 the policy or contract provides benefits, of the same type offered under the policy or
23 contract for other illnesses, for health services to any person covered under the policy
24 or contract, for the diagnosis, evaluation, and treatment of mental disorder and other
25 related illness, which benefits meet or exceed the benefits provided in subsection 2.
- 26 2. a. The benefits must be provided for each of the following services: inpatient
27 treatment, treatment by partial hospitalization, residential treatment, and
28 outpatient treatment.
- 29 b. In the case of benefits provided for inpatient treatment, the benefits must be
30 provided for a minimum of forty-five days of services covered under this section
31 and ~~section 26.1-36-08~~ in any calendar year if provided by a hospital as defined

1 under section 52-01-01 and rules of the state department of health pursuant
2 thereto offering treatment for the prevention or cure of mental disorder or other
3 related illness. An insurance provider may require an individualized treatment
4 plan from the inpatient treatment service provider which indicates that the course
5 of treatment is the most appropriate and least restrictive form of treatment
6 available in the community.

7 c. In the case of benefits provided for partial hospitalization, the benefits must be
8 provided for a minimum of one hundred twenty days of services covered under
9 this section ~~and section 26.1-36-08~~ in any calendar year. Partial hospitalization
10 must be provided by a hospital as defined under section 52-01-01 and rules of
11 the state department of health pursuant thereto or by a regional human service
12 center licensed under section 50-06-05.2, offering treatment for the prevention or
13 cure of mental disorder or other related illness. For services provided in regional
14 human service centers, charges must be reasonably similar to the charges for
15 care provided by hospitals as defined in this subsection.

16 d. In the case of benefits provided for residential treatment, the benefits must be
17 provided for a minimum of one hundred twenty days of services covered under
18 this section in any calendar year. Residential treatment services must be
19 provided by a hospital as defined under section 52-01-01 and rules of the state
20 department of health; by a regional human service center licensed under section
21 50-06-05.2 offering treatment for the prevention or cure of mental disorder or
22 other related illness; or by a residential treatment program. For services provided
23 in a regional human service center, charges must be reasonably similar to the
24 charges for care provided by a hospital as defined in this subsection.

25 e. Any individual receiving residential treatment services who requires residential
26 treatment service beyond the minimum of one hundred twenty days may trade
27 unused inpatient treatment benefits provided for under subdivision b. For the
28 purpose of computing the period for which benefits are payable, each day of
29 inpatient treatment is equivalent to two days of treatment by a residential
30 treatment program; provided, however, that no more than twenty-three days of

1 the inpatient treatment benefits required by this section may be traded for
2 residential treatment services.

- 3 f. (1) In the case of benefits provided for outpatient treatment, the benefits must
4 be provided for a minimum of thirty hours for services covered under this
5 section in any calendar year if the treatment services are provided within the
6 scope of licensure by a nurse who holds advanced licensure with a scope of
7 practice within mental health or if the diagnosis, evaluation, and treatment
8 services are provided within the scope of licensure by a licensed physician,
9 a licensed psychologist who is eligible for listing on the national register of
10 health service providers in psychology, a licensed professional clinical
11 counselor who is qualified in the clinical mental health counseling specialty
12 in this state, or a licensed independent clinical social worker.
- 13 (2) A person who is qualified for third-party payment by the board of social work
14 examiners on August 1, 1997, is exempt from paragraph 1.
- 15 (3) Upon the request of an insurance company, a nonprofit health service
16 corporation, or a health maintenance organization, the North Dakota board
17 of social work examiners shall provide to the requesting entity information to
18 certify that a licensed certified social worker meets the qualifications
19 required under this section.
- 20 (4) The insurance company, nonprofit health service corporation, or health
21 maintenance organization may not establish a deductible or a copayment
22 for the first five hours in any calendar year, and may not establish a
23 copayment greater than twenty percent for the remaining hours. The
24 deductible limitation of this paragraph does not apply to a high-deductible
25 health plan used to establish a health savings account pursuant to and as
26 defined in section 223 of the Internal Revenue Code [26 U.S.C. 223].
- 27 (5) If the services are provided by a provider outside a preferred provider
28 network without a referral from within the network, the insurance company,
29 nonprofit health service corporation, or health maintenance organization
30 may establish a copayment greater than twenty percent for only those hours
31 after the first five hours in any calendar year.

1 g. "Partial hospitalization" means continuous treatment for at least three hours, but
2 not more than twelve hours, in any twenty-four-hour period and includes the
3 medically necessary treatment services provided by licensed professionals under
4 the supervision of a licensed physician.

5 h. "Residential treatment" has the same meaning as provided in section 25-03.2-01,
6 but only applies to individuals under twenty-one years of age.

7 3. This section does not prevent any insurance company, nonprofit health service
8 corporation, or health maintenance organization from issuing, delivering, or renewing,
9 at its option, any policy or contract containing provisions similar to those required by
10 this section, when the policy or contract is not subject to such provisions.

11 **SECTION 3. REPEAL.** Section 26.1-36-08.1 of the North Dakota Century Code is repealed.

12 **SECTION 4. APPLICATION.** Section 1 of this Act applies to insurance policies issued or
13 renewed after December 31, 2015.