

April 23, 2019

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1374

That the Senate recede from its amendments as printed on page 1399 of the House Journal and pages 1003 and 1004 of the Senate Journal and that Engrossed House Bill No. 1374 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 50-24.1 and a new section to chapter 54-52.1 of the North Dakota Century Code, relating to the medical assistance pharmacy management program and public employees retirement system prescription drug coverage benefits; to provide for a legislative management study; to provide for application; and to provide an effective date.

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

**SECTION 1.** A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

**Pharmacy management program.**

The department shall establish a pharmacy management program to be used by the medical assistance program for Medicaid expansion for prescription drug coverage. The department shall process claims through the department's existing pharmacy claims system and Medicaid management information system and provide the contracted managed care plan with a daily pharmacy claims file for Medicaid expansion recipients.

**SECTION 2.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

**Prescription drug coverage - Performance audits.**

1. Except for Medicare part D, prescription drug coverage, the board may not enter or renew a contract for prescription drug coverage unless the contract authorizes the board during the term of the contract to conduct a performance audit of the prescription drug coverage and any related pharmacy benefits management services. The contract must provide:
  - a. The board must have full access to data regarding:
    - (1) The total dollars paid to the pharmacy benefits manager by the carrier and the board;
    - (2) The total amount of dollars paid to the pharmacy benefits manager by the carrier which were not subsequently paid to a licensed pharmacy in the state; and
    - (3) Payments made to all pharmacy providers.

- b. The board must have full access to data regarding the average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy benefits manager to licensed pharmacies with which the pharmacy benefits manager shares common ownership or control or is affiliated.
  - c. The board must have full access to data regarding the average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy benefits manager to pharmacies licensed in the state.
  - d. The board must have full access to data regarding any direct and indirect fees, charges, or recoupment, or any kind of assessments imposed by the pharmacy benefits manager on pharmacies licensed with which the pharmacy benefits manager shares common ownership or control or is affiliated.
  - e. The board must have full access to data regarding any direct and indirect fees, charges, or recoupment, or any kind of assessments imposed by the pharmacy benefits manager, on pharmacies licensed in the state.
  - f. The contract must provide that all drug rebates, financial incentives, fees, and discounts must be disclosed to the board.
2. The board shall use an independent auditor who has no conflict of interest with the carrier, pharmacy benefits manager, or board. The board's auditor, the insurance department, and the employee benefits programs committee may access any information the board may access under this section. All information accessed by the board, board's auditor, insurance department, or employee benefits programs committee which is trade secret is a confidential record. This subsection does not limit the information required to be disclosed to the board under subsection 1.
3. If the board contracts directly with a pharmacy benefits manager or provides prescription drug coverage through a self-insurance plan, the contract must provide the pharmacy benefits manager shall disclose to the board and the board's auditor all rebates and any other fees that provide the pharmacy benefits manager with sources of income under the contract, including under related contracts the pharmacy benefits manager has with third parties, such as drug manufacturers.

**SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES RETIREMENT SYSTEM PRESCRIPTION DRUG COVERAGE.** During the 2019-20 interim, the legislative management shall study the feasibility and desirability of the public employees retirement system entering a separate contract for prescription drug coverage under the uniform group insurance program. The legislative management may contract with a private third party to assist in conducting the study and identifying pros and cons relating to a carve out for prescription drug coverage under the uniform group insurance program. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-seventh legislative assembly.

**SECTION 4. APPLICATION.** Section 2 of this Act applies to contracts entered by the public employees retirement system board on and after the effective date of this Act.

**SECTION 5. EFFECTIVE DATE.** Section 1 of this Act becomes effective on January 1, 2020."

Renumber accordingly