

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1194

Introduced by

Representative Keiser

Senator Heckaman

1 A BILL for an Act to create and enact section 50-24.1-40 of the North Dakota Century Code,  
2 relating to medical assistance tribal health care coordination agreements; to amend and reenact  
3 section 50-24.1-37 of the North Dakota Century Code, relating to Medicaid expansion; to  
4 provide for a report to the legislative management; to provide a continuing appropriation; to  
5 provide a contingent expiration date; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **50-24.1-37. Medicaid expansion - Legislative management report. (~~Effective-~~**  
10 **~~January 1, 2014, through July 31, 2019 - Contingent repeal - See note)~~**

- 11 1. The department of human services shall expand medical assistance coverage as  
12 authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148],  
13 as amended by the Health Care and Education Reconciliation Act of 2010 [Pub.  
14 L. 111-152] to individuals under sixty-five years of age with income below one hundred  
15 thirty-eight percent of the federal poverty level, based on modified adjusted gross  
16 income.
- 17 2. The department of human services shall inform new enrollees in the medical  
18 assistance program that benefits may be reduced or eliminated if federal participation  
19 decreases or is eliminated.
- 20 3. The department shall implement the expansion by bidding through private carriers or  
21 utilizing the Medicaid program~~health insurance exchange~~.
- 22 4. The contract between the department and the private carrier must:

- 1           a.    Provide a reimbursement methodology for all medications and dispensing fees  
2                which identifies the minimum amount paid to pharmacy providers for each  
3                medication. The reimbursement methodology, at a minimum, must:  
4                (1)   Be available on the department's website; and  
5                (2)   Encompass all types of pharmacy providers regardless of whether the  
6                pharmacy benefits are being paid through the private carrier or contractor or  
7                subcontractor of the private carrier under this section.  
8           b.    Provide full transparency of all costs and all rebates in aggregate.  
9           c.    Allow an individual to obtain medication from a pharmacy that provides mail order  
10               service; however, the contract may not require mail order to be the sole method  
11               of service and must allow for all contracted pharmacy providers to dispense any  
12               and all drugs included in the benefit plan and allowed under the pharmacy  
13               provider's license.  
14           d.    Ensure that pharmacy services obtained in jurisdictions other than this state and  
15               its three contiguous states are subject to prior authorization and reporting to the  
16               department for eligibility verification.  
17           e.    Ensure the payments to pharmacy providers do not include a required payback  
18               amount to the private carrier or one of the private carrier's contractors or  
19               subcontractors which is not representative of the amounts allowed under the  
20               reimbursement methodology provided in subdivision a.  
21        5.    The contract between the department and the private carrier must provide the  
22               department with full access to provider reimbursement rates. The department shall  
23               consider provider reimbursement rate information in selecting a private carrier under  
24               this section. Before August first of each even-numbered year, the department shall  
25               submit a report to the legislative management regarding provider reimbursement rates  
26               under the medical assistance expansion program. This report may provide cumulative  
27               data and trend data but may not disclose identifiable provider reimbursement rates.  
28        6.    Provider reimbursement rate information received by the department under this  
29               section and any information provided to the department of human services or any  
30               audit firm by a pharmacy benefit manager under this section is confidential, except the

1 department may use the reimbursement rate information to prepare the report to the  
2 legislative management as required under this section.

3 **SECTION 2.** Section 50-24.1-40 of the North Dakota Century Code is created and enacted  
4 as follows:

5 **50-24.1-40. Medical assistance - Tribal health care coordination agreements -**

6 **Continuing appropriation - Report to legislative management.**

7 1. As used in this section:

8 a. "Care coordination agreement" means an agreement between a health care  
9 provider and tribal health care organization which will result in one hundred  
10 percent federal funding for eligible medical assistance provided to an American  
11 Indian.

12 b. "Tribal health care organization" means Indian health services or a tribal entity  
13 providing health care under the federal Indian Self-Determination and Education  
14 Assistance Act of 1975 [Pub. L. 93-638; 88 Stat. 2203; 25 U.S.C. 5301 et seq.].

15 2. The department of human services shall facilitate care coordination agreements. Of  
16 any federal funding received in excess of the state's regular share of federal medical  
17 assistance funding which results from care coordination agreements, the department  
18 shall deposit fifty percent in the tribal health care coordination fund and fifty percent in  
19 the general fund.

20 3. There is created in the state treasury a tribal health care coordination fund.

21 a. Moneys in the fund are appropriated to the department on a continuing basis for  
22 distribution to a tribal government in accordance with an agreement between the  
23 department and a tribal government. The agreement between the department  
24 and a tribal government must require the tribe to:

25 (1) Use the money distributed under this section for health-related purposes.  
26 Health-related purposes may include health programs or services,  
27 marketing or education related to health-related programs or services, and  
28 capital construction directly related to health-related programs or services.

29 (2) Submit to the department annual reports detailing the use of the money  
30 distributed under this section.

1           (3) Submit to the department every four years an audit report, conducted by an  
2           independent licensed certified public accountant, of the tribal government  
3           use of the money distributed under this section. A tribal government may  
4           use money distributed under this section to pay for this audit report. At the  
5           discretion of a tribal government, an audit may be conducted more often  
6           than every four years.

7           b. The distribution of moneys from the fund to a tribal government must be in  
8           proportion to the federal funding received from care coordination agreement  
9           requests for services originating from within that tribal nation.

10          c. At least annually, upon completion of any auditing and verification actions of the  
11          department, the department shall distribute moneys from the fund to the tribal  
12          government.

13          d. If a tribal government fails to file with the department a timely annual report or  
14          audit report, the department shall withhold distribution of moneys from the fund to  
15          the tribal government until the report is filed.

16          e. If an audit report or the department's review of the annual report finds a tribal  
17          government used moneys distributed from the fund for a purpose inconsistent  
18          with this section, the department shall withhold future distributions to that tribal  
19          government in an amount equal to the money used improperly. The department  
20          shall distribute money withheld from a tribal government under this subdivision if  
21          a future audit report indicates moneys distributed from the fund are used for  
22          purposes consistent with this section.

23          4. Before August of each even-numbered year, the department shall compile and  
24          summarize the annual reports and audit reports from the participating tribal  
25          governments and provide the legislative management with a biennial report on the  
26          fund and tribal government use of money distributed from the fund.

27          **SECTION 3. CONTINGENT EXPIRATION DATE.** Section 2 of this Act is effective until the  
28          executive director of the department of human services certifies to the secretary of state and the  
29          legislative council the federal government ended the medical assistance expansion program or  
30          that the medical assistance expansion program provider reimbursement rates are less than  
31          commercial rates.

1        **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.