

**FIRST ENGROSSMENT  
with Conference Committee Amendments  
ENGROSSED HOUSE BILL NO. 1374**

Introduced by

Representatives M. Nelson, Holman

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

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

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

9 **Pharmacy management program.**

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

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

17 **Prescription drug coverage - Performance audits.**

18 1. Except for Medicare part D, prescription drug coverage, the board may not enter or  
19 renew a contract for prescription drug coverage unless the contract authorizes the  
20 board during the term of the contract to conduct a performance audit of the  
21 prescription drug coverage and any related pharmacy benefits management services.

22 The contract must provide:

23 a. The board must have full access to data regarding:

- 1           (1) The total dollars paid to the pharmacy benefits manager by the carrier and  
2           the board;
- 3           (2) The total amount of dollars paid to the pharmacy benefits manager by the  
4           carrier which were not subsequently paid to a licensed pharmacy in the  
5           state; and
- 6           (3) Payments made to all pharmacy providers.
- 7           b. The board must have full access to data regarding the average reimbursement,  
8           by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy  
9           benefits manager to licensed pharmacies with which the pharmacy benefits  
10          manager shares common ownership or control or is affiliated.
- 11          c. The board must have full access to data regarding the average reimbursement,  
12          by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy  
13          benefits manager to pharmacies licensed in the state.
- 14          d. The board must have full access to data regarding any direct and indirect fees,  
15          charges, or recoupment, or any kind of assessments imposed by the pharmacy  
16          benefits manager on pharmacies licensed with which the pharmacy benefits  
17          manager shares common ownership or control or is affiliated.
- 18          e. The board must have full access to data regarding any direct and indirect fees,  
19          charges, or recoupment, or any kind of assessments imposed by the pharmacy  
20          benefits manager, on pharmacies licensed in the state.
- 21          f. The contract must provide that all drug rebates, financial incentives, fees, and  
22          discounts must be disclosed to the board.
- 23          2. The board shall use an independent auditor who has no conflict of interest with the  
24          carrier, pharmacy benefits manager, or board. The board's auditor, the insurance  
25          department, and the employee benefits programs committee may access any  
26          information the board may access under this section. All information accessed by the  
27          board, board's auditor, insurance department, or employee benefits programs  
28          committee which is trade secret is a confidential record. This subsection does not limit  
29          the information required to be disclosed to the board under subsection 1.
- 30          3. If the board contracts directly with a pharmacy benefits manager or provides  
31          prescription drug coverage through a self-insurance plan, the contract must provide

1           the pharmacy benefits manager shall disclose to the board and the board's auditor all  
2           rebates and any other fees that provide the pharmacy benefits manager with sources  
3           of income under the contract, including under related contracts the pharmacy benefits  
4           manager has with third parties, such as drug manufacturers.

5           4. Anything the board has access to under this section, the insurance department and  
6           Employee Benefits Committee has access to.

7           **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES**

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

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

18          **SECTION 5. EFFECTIVE DATE.** Section 1 of this Act becomes effective on January 1,  
19          2020.