PUBLIC WELFARE

CHAPTER 350

SENATE BILL NO. 2270

(Senator Dever)

AN ACT to amend and reenact section 50-01.2-03.2 of the North Dakota Century Code, relating to county social service board reporting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-01.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-03.2. County duties - Financing in exceptional circumstances.

1. Each county social service board shall administer, under the direction and supervision of the department:

   a. Locally administered economic assistance programs;

   b. Replacement programs with substantially similar goals, benefits, or objectives; and

   c. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.

2. ~~On or before February twenty-eighth of each year, each county shall report to the department the total amount of county funds expended in the previous year to meet the cost of providing human services required under this title and the number of mills that must have been levied by that county in the prior year to raise that total amount.~~From the abstract of tax list prepared pursuant to section 57-20-04, each county shall annually provide the department of human services a report of the total mills levied for human service purposes pursuant to sections 50-03-01, 50-03-06, and 50-06.2-05, and the countywide value of a mill in each county. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:

   a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;

   b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;

c. Totaling the amounts determined under subdivision b for all counties entitled to a distribution;

d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and

e. Multiplying that decimal fraction times one-half of the biennial appropriation.

3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which the percentage of that county's average total supplemental nutrition assistance program caseload for the previous fiscal year which reside on federally recognized Indian reservation lands is ten percent or more. The reimbursement must be such that:

a. An affected county's actual direct costs and indirect costs allocated based on a percentage of each county's direct economic assistance and social services costs for locally administered economic assistance programs will be reimbursed at the percentage of that county's average total supplemental nutrition assistance program caseload for the previous state fiscal year which reside on federally recognized Indian reservation land not to exceed ninety percent;

b. The affected counties will receive quarterly payments based on the actual county direct and indirect costs, as provided in subdivision a, for the previous state fiscal year;

c. At the end of each fiscal year the actual quarterly payments paid must be reconciled to the current year of calculation of actual direct and indirect costs as provided in subdivision a and supplemental nutrition assistance program caseload and counties must be compensated accordingly in the first quarter of the new fiscal year; and

d. The reimbursement will be calculated for each county and reported to the county social service board prior to September first.

Approved April 20, 2011
Filed April 20, 2011

CHAPTER 351

HOUSE BILL NO. 1152

(Representatives Devlin, Vigesaa, J. Nelson, Kaldor)
(Senators Christmann, Robinson)

AN ACT to provide for medicaid supplemental payments to critical access hospitals; to provide for legislative management studies; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. MEDICAID SUPPLEMENTAL PAYMENT - CRITICAL ACCESS HOSPITALS. The department of human services shall provide a medicaid supplemental payment to critical access hospitals. The department shall seek federal medicaid funding to support the supplemental payments.

SECTION 2. PATIENT-CENTERED MEDICAL HOMES - LEGISLATIVE MANAGEMENT STUDY. During the 2011-12 interim, the legislative management shall consider studying and evaluating the positive and negative impacts of implementation of patient-centered medical homes in the state, including consideration of whether implementation is resulting in North Dakota residents experiencing health care savings and improved medical results as well as whether implementation is impacting North Dakota's critical access hospitals. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 3. HEALTH CARE DELIVERY - LEGISLATIVE MANAGEMENT STUDY. During the 2011-12 interim, the legislative management shall consider studying the future of health care delivery in the state. The study must focus on the delivery of health care in rural areas of the state and include input from the university of North Dakota school of medicine and health sciences center for rural health, hospitals, and the medical community. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $1,527,802, or so much of the sum as may be necessary, and from federal funds, the sum of $1,926,259, or so much of the sum as may be necessary, to the department of human services for the purpose of providing medicaid supplemental payments to critical access hospitals under section 1 of this Act, for the biennium beginning July 1, 2011, and ending June 30, 2013. This funding is considered to be one-time funding for the 2011-13 biennium. The department shall report to the appropriations committees of the sixty-third legislative assembly on the use of this one-time funding.

Approved April 27, 2011
Filed April 27, 2011

CHAPTER 352

HOUSE BILL NO. 1337

(Representatives Kingsbury, Kilichowski)
(Senator Miller)

AN ACT to authorize the department of human services to convey certain land in Walsh County, North Dakota; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TRANSFER OF LAND AUTHORIZED. The state of North Dakota by and through the department of human services may convey the land described in this section to the Grafton park board, for the price and on the terms as determined by the department of human services. Sections 54-01-05.2 and 54-01-05.5 do not apply to the transfer authorized by this Act. The land to be conveyed is a part of the grounds of the developmental center at westwood park, Grafton, described generally as follows:

> A parcel of land approximately 77.05 acres, more or less, located within the west ½ of the west ½ of the northwest ¼ of section 13, township 157 north, range 53 west.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 4, 2011
Filed April 4, 2011

CHAPTER 353

SENATE BILL NO. 2043

(Legislative Management)
(Long-Term Care Committee)

AN ACT to provide for a developmental disabilities system reimbursement project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEVELOPMENTAL DISABILITIES SYSTEM REIMBURSEMENT PROJECT. The department of human services, in conjunction with developmental disabilities service providers, shall develop a prospective or related payment system with an independent rate model utilizing the support intensity scale.

1. The department shall establish a steering committee consisting of representatives from all interested providers and department representatives. The steering committee shall guide the development of the new payment system including assisting a consultant to conceptualize, develop, design, implement, and evaluate a new payment system.

2. The department shall contract with a consultant by September 1, 2011, to develop, in collaboration with the steering committee, the payment system and the resource allocation model tying funding to support intensity scale assessed needs of clients.

3. After the prospective or related payment system rates are developed, the new rates must be tested on a sampling of clients and providers, the sample to be determined by the steering committee, allowing sufficient time to capture provider cost, client realized need, and service provision data. The consultant shall provide the appropriate sampling number to sufficiently test the rates, types of services, and needs of clients with the intent to include as many providers as fiscally feasible.

4. The department shall contract with a team of support intensity scale assessors by September 1, 2011. The team shall begin assessing immediately the identified client pilot group identified by the consultant contracted in subsection 2.

5. Once testing is complete, the data must be analyzed by the consultant and the consultant shall make any needed rate adjustments, resource allocation modifications, or process assumptions.

6. Beginning in June 2012, the department and the steering committee shall report development activities and status information to an interim legislative committee.

7. Implementation of any system developed under this Act may not occur before the implementation of the department's new medicaid management information system.

Approved April 26, 2011
Filed April 26, 2011

CHAPTER 354

SENATE BILL NO. 2268

(Senators Wardner, Nelson)
(Representative N. Johnson)

AN ACT to provide for a regional autism spectrum disorder centers of early intervention and achievement pilot program; to provide for a report to the legislative management; to provide for a report to the sixty-third legislative assembly; to provide for a legislative management study; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REGIONAL AUTISM SPECTRUM DISORDER CENTERS OF EARLY INTERVENTION AND ACHIEVEMENT PILOT PROGRAM - REPORT TO THE LEGISLATIVE MANAGEMENT - REPORT TO THE SIXTY-THIRD LEGISLATIVE ASSEMBLY. During the 2011-13 biennium, the department of human services may use up to $200,000 of funding from its legislative appropriation to establish and operate a regional autism spectrum disorder centers of early intervention and achievement pilot program.

1. The pilot program must provide a matching grant to a qualified applicant that is a nonprofit intermediate care facility for individuals with intellectual disabilities which is licensed by the department of human services.

2. A qualified applicant shall establish the availability of $1 of nonstate, cash matching funds for each grant dollar awarded under this section. The source of the matching funds must be funds of the applicant.

3. A qualified applicant shall submit a plan for the funding, development, and delivery of skilled services to individuals with autism spectrum disorder who reside within the applicant's service region. The plan must provide for the establishment of a regional autism spectrum disorder center of early intervention and achievement in a city with a population of more than ten thousand.

4. As a condition of a grant award under this program, a qualified applicant shall agree to collaborate with the department of human services in developing and implementing the plan as well as postaward monitoring by the department of human services.

5. The department of human services shall report to the legislative management before September 30, 2012, on the preliminary findings and recommendations of the pilot program. The department of human services shall provide a written report summarizing the status of the pilot program and any findings and recommendations to the legislative management before December 31, 2012.

6. The department of human services shall report to the appropriations committees of the sixty-third legislative assembly on the status of the pilot program and any findings and recommendations.

SECTION 2. AUTISM STUDY - LEGISLATIVE MANAGEMENT STUDY. During the 2011-12 interim, the legislative management shall consider studying the current system for the diagnosis of, early treatment of, care for, and education of individuals with autism spectrum disorder. The study must include a review of a sliding fee scale for payment of services and the value of services provided. The study must consider the recommendations of the autism spectrum disorder task force and must seek input from stakeholders in the private and public sectors, including families affected by autism spectrum disorder, insurers, educators, treatment providers, early childhood service providers, caretakers, and nonprofit intermediate care facilities for individuals with intellectual disabilities. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 2013, and after that date is ineffective.

Approved April 26, 2011
Filed April 26, 2011

CHAPTER 355

SENATE BILL NO. 2326

(Senators Mathern, J. Lee)
(Representative Hofstad)

AN ACT to provide for a substance abuse services pilot voucher payment program; to provide a continuing appropriation; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. SUBSTANCE ABUSE SERVICES PILOT VOUCHER PAYMENT PROGRAM - CONTINUING APPROPRIATION. The department of human services shall establish and administer a pilot voucher payment program to provide substance abuse services for the biennium beginning July 1, 2011, and ending June 30, 2013. The pilot voucher payment program must consist of voucher use and provider choice as a method of providing substance abuse services to beneficiaries. The program must allow a voucher to be submitted to the beneficiary's provider of choice for payment of substance abuse services. The department of human services shall develop service agreements with substance abuse service providers licensed and accredited by the state to offer services in exchange for vouchers, which may be presented to the department for payment as provided for in the agreement. The payment amount may not exceed the cost of the same service provided by the state. The substance abuse services pilot voucher payment program must be developed to improve access to substance abuse services. The department of human services shall apply for funding available through a federal access to recovery grant program available from the federal substance abuse and mental health services administration center for substance abuse treatment. All moneys received by the department through the federal access to recovery grant for the pilot voucher payment program under this section are appropriated and may be spent by the department for costs of the pilot voucher payment program for the biennium beginning July 1, 2011, and ending June 30, 2013. The department of human services shall offer the substance abuse services pilot voucher payment program required by the access to recovery grant program. If no region has available the services required by the access to recovery grant program, the department of human services shall choose a region or regions in which to develop the required services without duplication to meet the access to recovery grant requirements. If the federal access to recovery grant funding is not available to the department, the department is not required to implement the pilot voucher payment program.

SECTION 2. DEPARTMENT OF HUMAN SERVICES REVIEW - REPORT TO THE LEGISLATIVE MANAGEMENT. The department of human services shall perform a comprehensive review of the substance abuse services pilot voucher payment program for the biennium beginning July 1, 2011, and ending June 30, 2013. The review must include information regarding the cost of substance abuse services provided through the pilot voucher payment program compared to the cost of similar substance abuse services provided during the 2011-13 biennium. The review must also analyze the effect of the substance abuse services pilot voucher payment program on access to care and outcomes.

The department of human services shall report the preliminary findings of the comprehensive review and any recommendations for continuation or expansion of the pilot voucher payment program to the legislative management prior to September 30, 2012.

Approved April 20, 2011
Filed April 20, 2011

CHAPTER 356

SENATE BILL NO. 2095

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-09-38 of the North Dakota Century Code, relating to payment of transition assistance for child care directly to a child care provider.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-09-38 of the North Dakota Century Code is amended and reenacted as follows:

50-09-38. Transition assistance for child care.

The state agency shall establish a program of transition assistance to pay a portion of the cost of child care for families that lose eligibility, and remain ineligible, for benefits under section 50-09-29 due to earnings from employment. This program must:

1. Provide benefits for up to the six months following the loss of benefits under section 50-09-29;

2. ~~Be paid directly to recipients using a debit card~~Pay assistance to the child care provider; and

3. Meet all requirements to be considered "assistance" for purposes of title 45, Code of Federal Regulations, part 260, section 31, or any substantially similar federal regulation that may replace title 45, Code of Federal Regulations, part 260, section 31.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 357

HOUSE BILL NO. 1095

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-11-00.1 and 50-11-03.2 of the North Dakota Century Code, relating to the approval process of group foster care facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-00.1. Definitions.

As used in this chapter:

1. "Approval" means the approval by the department of a home of a Native American family located on a recognized Indian reservation in North Dakota or of a facility owned by the tribe or a tribal member and located on a recognized Indian reservation in North Dakota, not subject to the jurisdiction of the state of North Dakota for licensing purposes, to allow the home or facility to receive title IV-E funding.

2. "Authorized agent" means the county social service board, unless another entity is designated by the department.

~~2.~~3. "Department" means the department of human services.

~~3.~~4. "Facility" means a family foster home for adults, family foster home for children, group home, or residential child care facility for children.

~~4.~~5. "Family foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee thereof, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.

~~5.~~6. "Family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee thereof to no more than four children, unless all the children in foster care are related to each other by blood or marriage or unless the department approves otherwise for the placement of siblings, in which case the limitation in this subsection does not apply.

~~6.~~7. "Foster care for adults" means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the home of a caregiver, to a person age eighteen or older, who is unable, neglects, or refuses to provide for the person's own care.

~~7.~~8. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a family foster home, group home, or residential child care facility.

~~8.~~9. "Group home" means a residence in which foster care is regularly provided for more than four, but less than ten, unrelated children.

~~9.~~10. "Residential child care facility" means a facility other than an occupied private residence providing foster care to more than eight unrelated children, except as may be otherwise provided by rule or regulation.

SECTION 2. AMENDMENT. Section 50-11-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.2. Use of public funds.

Public funds for the purchase of foster care for children or adults may be used only in facilities licensed or approved by the department. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a facility that does not have a license or approval issued by the department. This section does not apply to any home or institution under the management and control of the state.

Approved April 27, 2011
Filed April 27, 2011

CHAPTER 358

SENATE BILL NO. 2079

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-11-01.4 of the North Dakota Century Code, relating to a person's ability to provide adult foster care after a license is denied or revoked; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01.4. Foster care for adults - License required.

A person may not furnish foster care for adults for more than one adult, or for more than two adults who are related to each other, without first procuring a license to do so from the department. A person may not furnish foster care for an adult if the person has had a license denied or revoked unless the department subsequently issues a license to that person.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - EXPLOITATION OF ELDERLY. During the 2011-12 interim, the legislative management shall consider studying the exploitation of the state's elderly and the state's vulnerable adult population. The study must include a review of the vulnerable adult protection system, the use of sections 12.1-31-07, 12.1-31-07.1, and 12.1-31-07.2, and any barriers to the use of those sections. The study also must include a review of state and county services available to detect and respond to elderly abuse. The study also must include a statewide review of the role public administrators and guardians have in providing services to the elderly and to vulnerable adults. The legislative management shall report its findings, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 3. EMERGENCY. Section 1 of this Act is declared to be an emergency measure.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 359

HOUSE BILL NO. 1115

(Judiciary Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-11-05 of the North Dakota Century Code, relating to the confidentiality of foster care records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-05 of the North Dakota Century Code is amended and reenacted as follows:

50-11-05. Contents of records not disclosed - Exception.

The records of facilities licensed under this chapter and the records of the department and its authorized agents, pertaining to the children or adults receiving care, are confidential ~~and may be made available~~but may be disclosed:

1. In a judicial proceeding;

2. To officers of the law or other legally constituted boards or agencies; or

3. To persons who have a definite interest in the well-being of the adults or children concerned, who are in a position to serve their interests, and who need to know the contents of the records in order to assure their well-being and interests.

Approved March 28, 2011
Filed March 28, 2011

CHAPTER 360

HOUSE BILL NO. 1085

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-11.1-07.8 and 50-25.1-11 of the North Dakota Century Code, relating to conditions on an early childhood license, self-declaration, or registration document involving a child abuse and neglect investigation and to the confidentiality of child abuse and neglect records and information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.8. Suspension of license, self-declaration, or registration document - Investigation upon a report of child abuse or neglect - Notification to parent.

1. The department may ~~suspend~~:

   a. Suspend a license, self-declaration, or registration document ~~during an investigation of~~at any time after the onset of a child abuse and neglect investigation alleging the owner or operator, the holder of a self-declaration, or the in-home provider has committed child abuse, including child sexual abuse, or has neglected a child and law enforcement has been involved, if continued operation is likely to jeopardize the health and safety of the children.

   b. Suspend upon a child abuse or neglect services required determination indicating that a child has been abused or neglected by the owner or operator, the holder of a self-declaration, or the in-home provider if continued operation is likely to jeopardize the health and safety of the children present.

   c. Prohibit the presence of an accused owner, operator, holder of a self-declaration, in-home provider, staff member, or household member of the early childhood program, self-declaration, or in-home provider from the early childhood premises when children are in child care, upon a report of child abuse or neglect at the premises of the licensed program, holder of the self-declaration, or registration, or ~~of~~involving a staff member or household member if continued operation or the presence of the accused individual is likely to jeopardize the health and safety of the children present.

2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department ~~shall~~:

   a. Shall notify the parent of any child receiving early childhood services when that program's license, self-declaration, or registration document is suspended.

b. May notify the parent of any child receiving early childhood services when an owner, operator, holder of a self-declaration, in-home provider, adult staff member, or adult household member of the program providing care of the child is under investigation under subsection 1.

c. May notify the parent of any child receiving early childhood services that a staff member or household member is under investigation under subsection 1 if the staff member or household member is a minor.

3. Upon the conclusion and disposition of the investigation ~~of the program~~, the department shall notify the parent of each child receiving early childhood services of the disposition.

4. Notwithstanding any provision to the contrary, any action taken under this section may preclude an individual's ability to operate pending an appeal.

SECTION 2. AMENDMENT. Section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-11. Confidentiality of records - Authorized disclosures.

1. A report made under this chapter, as well as any other information obtained, is confidential and must be made available to:

~~1.~~ a. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.

~~2.~~ b. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information to determine whether to place the child in protective custody.

~~3.~~ c. Authorized staff of the department and its authorized agents, children's advocacy centers, and appropriate state and local child protection team members, and citizen review committee members.

~~4.~~ d. Any person who is the subject of the report; provided, however, that the identity of persons reporting or supplying information under this chapter is protected until the information is needed for use in an administrative proceeding arising out of the report.

~~5.~~ e. Public officials and their authorized agents who require the information in connection with the discharge of their official duties.

~~6.~~ f. A court, including an administrative hearing office, whenever the court determines that the information is necessary for the determination of an issue before the court.

~~7.~~ g. A person engaged in a bona fide research purpose approved by the department's institutional review board; provided, however, that no individually identifiable information as defined in section 50-06-15 is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.

~~8.~~ h. A person who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely

to or continues to come before the reporter in the reporter's official or professional capacity.

~~9.~~ i. A parent or a legally appointed guardian of the child identified in the report as suspected of being, or having been, abused or neglected, provided the identity of persons making the report or supplying information under this chapter is protected. Unless the information is confidential under section 44-04-18.7, when a decision is made under section 50-25.1-05.1 that services are required to provide for the protection and treatment of an abused or neglected child, the department shall make a good-faith effort to provide written notice of the decision to persons identified in this subsection. The department shall consider any known domestic violence when providing notification under this section.

2. The parent or legally appointed guardian of a child receiving early childhood services under chapter 50-11.1 may receive the name of the subject, a summary of the facts, and the results of an assessment conducted under this chapter if the report made under this chapter involves the owner, operator, staff member, or household member of the early childhood program, the holder of a self-declaration or a household member of the holder of a self-declaration, or the in-home provider or a household member of the in-home provider, who is providing care to the child. The department shall make a good-faith effort to provide written notice of the results of an assessment conducted under this chapter to parents or legally appointed guardians identified in this subsection.

Approved April 28, 2011
Filed April 28, 2011

CHAPTER 361

SENATE BILL NO. 2298

(Senators Heckaman, Marcellais, Mathern)
(Representatives Delmore, Kilichowski, Metcalf)

AN ACT to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to the establishment of early childhood services inclusion support services and a grant program for licensed early childhood services providers who care for children with special needs; to provide a statement of legislative intent; to provide for a legislative management study; to provide a continuing appropriation; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Early childhood services inclusion support services and grant program.

1. The department may establish in collaboration with the department of commerce an early childhood services inclusion grant program for licensed early childhood services providers that provide care for children with disabilities or developmental delays. The grant program must be designed to:

   a. Increase the number of staff in the adult-to-child ratio to expand supervision and the ability to care for children with disabilities or developmental delays; and

   b. Assist in modifying or adapting the early childhood services setting as needed to address the health and safety needs of children with disabilities or developmental delays.

2. The department may fund early childhood services specialists to make available technical assistance to early childhood services providers that care for children with special needs or developmental delays. The technical assistance program must be designed to:

   a. Assist early childhood services providers that request support and information regarding caring for children with special needs or developmental delays;

   b. Assist early childhood services providers in adapting the program environment and care practices to meet the individual child's needs and to build the early childhood services providers' capacity to serve children with special needs or developmental delays;

   c. In partnership with the child's parents and health care provider, assist the early childhood services provider in the development or coordination of care plans for children with special needs or special health care needs relevant to the care setting;

d. In partnership with the child's parents, foster communication with the team of specialists serving the child to ensure consistency in therapy practices and appropriate approaches;

e. Provide classroom training to early childhood services providers to assist the providers in the integration of children with special needs; and

f. As requested by the early childhood services providers, conduct one-on-one training at the provider's business to assist the provider in the integration of children with special needs.

3. The department may establish a grant review committee to assist in the development of grant guidelines, the review of applications, and the determination of awards or denials. The membership of the grant review committee must include representation from each of the following:

a. The department of human services;

b. The department of public instruction;

c. The North Dakota training and information center;

d. North Dakota child care resource and referral; and

e. Parents of children with disabilities or at risk for developmental delays.

4. To be eligible for the grant program, the early childhood services provider must:

a. Be state-licensed;

b. Submit a letter from the provider's county social services office confirming the provider's licensing status;

c. Submit a letter from a service provider that provides formal supports to the child confirming an increased funding need to assist the provider in serving the child with disabilities; and

d. Work with the child's family and an inclusion or health specialist to complete a care plan appropriate for the child care setting.

5. The department shall give priority consideration to licensed early childhood services providers that care for children with disabilities.

6. For purposes of this section, a child with disabilities or who is at risk for developmental delays includes any child in this state between the ages of birth and twelve years who receives support through either public or private services and includes a child who is in the process of being evaluated for public or private formal support. A child who is at risk for developmental delays includes any child between the ages of birth and twelve years who received foster care services; who has a previous substantiated history as a victim of child abuse, neglect, or domestic violence; who is homeless; who has documented special health care needs; or who has a parent with a significant disability.

7. The department may accept gifts, grants, and donations from any source to assist the department in the establishment and implementation of the early childhood services inclusion support services and grant program. Any gifts, grants, and donations received are appropriated to the department on a continuing basis for the purpose of funding the early childhood services inclusion support services and grant program under this section.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $50,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding the early childhood services inclusion support services, for the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 3. LEGISLATIVE INTENT - GRANT FUNDING. It is the intent of the legislative assembly that the funding source for grants provided under section 1 of this Act come from that portion of the grant line item of the department of commerce appropriation attributable to the department of commerce's grants for the early childhood facilities program. The total amount of grants awarded under section 1 of this Act which are funded by the department of commerce grant line item may not exceed fifty percent of the funds available under the department of commerce's grants for the early childhood facilities program, and the grant under section 1 of this Act must comply with the maximum grant amount and matching fund requirements of the department of commerce's grants for the early childhood facilities program.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - CHILDREN SERVICES FUNDING. During the 2011-12 interim, the legislative management shall consider studying the delivery of early childhood services and programs aimed at providing services to children, such as head start, temporary assistance to needy families, the early childhood comprehensive system program, and department of public instruction-approved preschools and the funding sources for the recipients and providers of these services. The study must include a review of the various agencies involved in providing grants and other funding for the recipients and providers of these services. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved May 17, 2011
Filed May 17, 2011

CHAPTER 362

HOUSE BILL NO. 1315

(Representatives Paur, Devlin, Vigesaa)
(Senators Miller, Sitte, Uglem)

AN ACT to amend and reenact subsection 1 of section 50-22-04 of the North Dakota Century Code, relating to the filing of an annual report by a charitable organization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-22-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Every charitable organization that is required to file or that files a registration statement pursuant to section 50-22-02 shall file an annual report along with a ten dollar fee with the secretary of state on or before September first of each year. The report must be postmarked by the United States postal service or other carrier, in a properly addressed, postage prepaid, sealed envelope.

   The secretary of state may extend the filing date for the annual report of any charitable organization, if a written application for extension is received before the filing deadline <u>an extension may be granted for a single year, or permanently at the request of the charitable organization</u>. A charitable organization with a fiscal year ending within three months prior to the filing deadline may make a written request for an extension to apply to reports for subsequent years until the fiscal year is changed. <u>A filing date may not be extended under this subsection beyond December first of any given year an annual report is due.</u>

   Information submitted must be given as of the close of the business on the thirty-first day of December next preceding the date herein provided for the filing of the report, or, in the alternative, the date of the end of the fiscal year next preceding this report may be used.

Approved March 29, 2011
Filed March 29, 2011

CHAPTER 363

SENATE BILL NO. 2075

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-24.1-02.3 of the North Dakota Century Code, relating to excess assets in pre-need funeral service contracts, prepayments, or deposits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.3. When designated pre-need funeral service contracts, prepayments, or deposits not to be considered in eligibility determination.

In determining eligibility for medical assistance, the department of human services may not consider as an available resource any pre-need funeral service contracts, prepayments, or deposits to a fund which total six thousand dollars or less designated by the applicant or recipient as set-aside to pay for the applicant's or recipient's funeral. An applicant or recipient designates a prepayment or deposit for that applicant's or recipient's burial by providing funds that are to be used for the funeral or burial expenses of the applicant or recipient. In addition, the applicant or recipient may designate all or a portion of the three thousand dollar asset limitation for funeral pre-need contracts, prepayments, or deposits. Interest or earnings retained in a funeral fund also may not be considered as an available resource. A pre-need funeral service contract, prepayment, or deposit designated under this section is not a multiple-party account for purposes of chapter 30.1-31. Any amount in a pre-need funeral service contract, prepayment, or deposit designated under this section which is not used for funeral or burial expenses must be returned to the estate of the medical assistance recipient and is subject to recovery by the department from the medical assistance recipient's estate. No claim for payment of funeral expenses may be made against the estate of a deceased medical assistance recipient except to the extent that funds maintained in accordance with this section total less than six thousand dollars.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 364

HOUSE BILL NO. 1320

(Representatives Klemin, Devlin, Porter)
(Senators Dever, Uglem)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to deductions from income for determining medical assistance eligibility.

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:

Real estate taxes on rental property as deduction from rental income.

For purposes of determining the treatment of income and the application of income to the cost of care for medical assistance eligibility for an individual screened as requiring nursing care services, and who is receiving nursing care services, the department of human services shall allow as a deduction from countable gross rental income the real estate taxes for rental property if the individual is responsible for paying the real estate taxes for that property.

Approved April 20, 2011
Filed April 20, 2011

CHAPTER 365

SENATE BILL NO. 2074

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 1 of section 50-24.1-07 of the North Dakota Century Code, relating to the recovery by the state from the estate of a permanently institutionalized medical assistance recipient.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[123] **SECTION 1. AMENDMENT.** Subsection 1 of section 50-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

1. On the death of any recipient of medical assistance who was a resident of a nursing facility, intermediate care facility for the mentally retarded, or other medical institution and with respect to whom the department of human services determined that resident reasonably was not expected to be discharged from the medical institution and to return home, or who was fifty-five years of age or older when the recipient received the assistance, and on the death of the spouse of the deceased recipient, the total amount of medical assistance paid on behalf of the recipient following the ~~determination that~~institutionalization of the recipient who cannot reasonably be expected to be discharged from the medical institution, or following the recipient's fifty-fifth birthday, as the case may be, must be allowed as a preferred claim against the decedent's estate after payment, in the following order, of:

   a. Funeral expenses not in excess of three thousand dollars;

   b. Expenses of the last illness, other than those incurred by medical assistance;

   c. Expenses of administering the estate, including attorney's fees approved by the court;

   d. Claims made under chapter 50-01;

   e. Claims made under chapter 50-24.5;

   f. Claims made under chapter 50-06.3 and on behalf of the state hospital; and

   g. Claims made under subsection 4.

Approved April 25, 2011
Filed April 25, 2011

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[123] Section 50-24.1-07 was also amended by section 22 of Senate Bill No. 2142, chapter 207.

CHAPTER 366

HOUSE BILL NO. 1169

(Representatives Kreidt, Devlin, Pollert, Wieland)
(Senator J. Lee)

AN ACT to amend and reenact section 50-24.4-07 of the North Dakota Century Code, relating to nonallowable costs in nursing home ratesetting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-07 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-07. Nonallowable costs.

1. The following costs may not be recognized as allowable: political contributions; salaries or expenses of a lobbyist, as defined in section 54-05.1-02, for lobbying activities; advertising designed to encourage potential residents to select a particular nursing home; fines and penalties; legal and related expenses for unsuccessful challenges to decisions by governmental agencies; memberships in sports, health, or similar social clubs or organizations; and costs incurred for activities directly related to influencing employees with respect to unionization. The department by rule shall exclude the costs of other items or services not directly related to the provision of resident care.

2. Nonallowable costs include the education expense unless:

   a. The education was provided by an accredited academic or technical educational facility;

   b. The education expense was for materials, books, or tuition;

   c. The facility claims the education expense, annually, in an amount not to exceed ~~the lesser of one-half of the individual's education expense or~~ three thousand seven hundred fifty dollars <u>for each individual</u>; and

   d. The amount of education expense claimed for an individual does not exceed fifteen thousand dollars in the aggregate.

3. The education expense may be claimed the year in which it is expended.

4. For any individual who receives education assistance, the facility shall enter a contract with the individual which stipulates a minimum commitment to work for the facility as well as a repayment plan if the individual does not fulfill the contract obligations.

5. An individual who receives education assistance shall commit to a minimum of one thousand six hundred sixty-four hours of employment after completion of the educational program for each year education assistance was provided by the facility.

6. The facility shall report the education expense separately on the facility's cost report. The expense is allowed as a passthrough and is limited only by the fifteen thousand dollar maximum per individual.

7. If an individual defaults on a contract and education expenses for the individual have previously been claimed in any report year, the facility shall report the amount of repayment on the facility's cost report in the report year in which the default occurs.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 367

HOUSE BILL NO. 1423

(Representatives Kreidt, Heller, Kempenich, J. Nelson)
(Senators Bowman, Christmann)

AN ACT to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to rulemaking authority with respect to the compensation for top management personnel of a basic care facility; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Compensation for top management personnel - Department to adopt emergency rules.

Notwithstanding the requirements of subsection 2 of section 28-32-03, the department of human services has the authority to create emergency rules related to the compensation for top management personnel of a basic care facility combined with a hospital.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 368

SENATE BILL NO. 2077

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new chapter to title 50 of the North Dakota Century Code, relating to expanded service payments for elderly and disabled; and to amend and reenact sections 50-24.5-01, 50-24.5-02, 50-24.5-03, and 50-24.5-04 of the North Dakota Century Code, relating to the requirements for basic care assistance eligibility, personal care services, and functional assessment criteria.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Aged" means at least sixty-five years of age.

2. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under ~~title~~titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].

3. "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.

4. "County agency" means the county social service board.

5. "Department" means the department of human services.

6. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under ~~title~~titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].

7. "Eligible beneficiary" means a resident of this state who:

   a. (1) Is aged; or

      (2) Is at least eighteen years of age and is disabled or blind;

   b. Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], ~~provided that an individual~~and who ~~was~~has applied for and is receiving benefits, if the individual is eligible to receive benefits, under ~~title~~titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] ~~and who was receiving benefits under title XVI before January 1, 1995, is not~~

~~ineligible because that individual is not eligible to receive benefits under title XIX~~;

c. Meets the requirements of section 23-09.3-08.1;

d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:

(1) Has health, welfare, or safety needs, including a need for supervision or a structured environment, which require care in a licensed adult family foster care home or an assisted living facility; or

(2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and

~~d.~~e. Is determined to be eligible pursuant to rules adopted by the department.

8. "Institution" means ~~an establishment that makes available some treatment or services beyond food or shelter to five or more individuals who are not related to the proprietor~~a facility licensed under chapter 23-09.3.

9. "Living independently" includes living in congregate housing. The term does not include living in an institution.

10. "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.

11. "Proprietor" means an individual responsible for day-to-day administration and management of a facility.

~~11. "Qualified service provider" means a county agency or independent contractor who agrees to meet standards for services and operations established by the department.~~

12. ~~"Related to the proprietor" means an individual who is a proprietor's spouse or former spouse, or a parent, stepparent, grandparent, stepgrandparent, child, stepchild, grandchild, stepgrandchild, brother, sister, half-brother, half-sister, stepbrother, or stepsister of a proprietor or proprietor's spouse or former spouse.~~

~~13.~~ "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.

~~14.~~13. "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under ~~title~~titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus ~~sixty dollars~~the amount allowed as the personal needs allowance.

SECTION 2. AMENDMENT. Section 50-24.5-02 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-02. Powers and duties of the department.

The department shall:

1. Administer aid to vulnerable aged, blind, and disabled persons and supervise and direct county agencies in the administration of aid to vulnerable aged, blind, and disabled persons.

2. ~~Supplement, within the limits of legislative appropriation, the income of an eligible beneficiary receiving necessary adult family foster care services to the extent that the eligible beneficiary lacks income sufficient to meet the cost of that care provided at rates determined by the department.~~

~~3.~~ Supplement, within the limits of legislative appropriation, the income of an eligible beneficiary receiving necessary basic care services to the extent that the eligible beneficiary lacks income sufficient to meet the cost of that care, provided at rates determined by the department adjusted by the inflation rate for basic care services used to develop the legislative appropriation for the department.

~~4.~~3. Pay qualified ~~service~~basic care providers at rates determined by the department, within the limits of legislative appropriation~~, for the provision of the following services provided to an eligible beneficiary to the extent that the eligible beneficiary lacks income sufficient to meet the cost of these services:~~

   ~~a. Homemaker services;~~

   ~~b. Chore services;~~

   ~~c. Respite care;~~

   ~~d. Home health aide services;~~

   ~~e. Case management;~~

   ~~f. Family home care;~~

   ~~g. Personal attendant care;~~

   ~~h. Adult family foster care;~~

   ~~i. Adaptive assessment; and~~

   ~~j. Other services the department determines to be essential and appropriate to sustain an individual in the individual's home and community and to delay or prevent institutional care.~~

~~5. Establish, maintain, and ensure the enforcement of standards for congregate housing as may be appropriate to the needs of the residents of congregate housing who are receiving services under this chapter. The standards must govern matters such as admission policy, safety, sanitation, and protection of civil rights.~~

~~6. Establish an individualized care rate for each eligible beneficiary receiving adult family foster care services or assisted living services~~.

~~7.~~4. Issue payment to basic facilities ~~and adult family foster care facilities~~ for services provided to an eligible beneficiary.

~~8.~~5. Take action and give directions necessary to implement this chapter.

SECTION 3. AMENDMENT. Section 50-24.5-03 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-03. Powers and duties of county agency.

Each county agency shall:

1. Administer aid to aged, blind, and disabled persons at the county level under the direction and supervision of the department, pursuant to state requirements.

2. Provide the services described in this chapter. ~~The county agency may contract with a qualified service provider in the provision of those services.~~

3. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter.

4. ~~Review the circumstances of congregate housing for residents receiving services under this chapter which may exist or may be established in the county and certify to the department that each congregate housing facility conforms to standards contained in rules adopted by the department.~~

~~5.~~ Provide case management services to eligible beneficiaries.

~~6. Provide assessments to eligible beneficiaries and to applicants, where necessary.~~

~~7.~~5. Conduct initial and ongoing functional assessments of applicants in cooperation with basic care facilities.

~~8. Submit an annual budget to the board of county commissioners containing an estimate and supporting data, setting forth the county funds needed to carry out this chapter.~~

~~9.~~6. Cooperate with any other county agency to assure the conduct of initial and ongoing functional assessments and determinations of eligibility with respect to any applicant or eligible beneficiary who is physically present in a county other than the county in which the applicant or eligible beneficiary is a resident for purposes of chapter 50-01.

SECTION 4. AMENDMENT. Section 50-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-04. Services provided - Limit on cost.

Services provided under this chapter must be treated as necessary remedial care to the extent those services are not covered under the medical assistance program. The cost of the services provided under this chapter to a person residing in a basic

care ~~or adult family foster care~~ facility for which the rate charged includes room and board is limited to the rate set for services in that facility, plus ~~eighty-five dollars~~the amount allowed as the personal needs allowance, less that person's total income.

SECTION 5. A new chapter to title 50 of the North Dakota Century Code is created and enacted as follows:

Definitions.

In this chapter, unless the context otherwise requires:

1. "Aged" means at least sixty-five years of age.

2. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].

3. "County agency" means the county social service board.

4. "Department" means the department of human services.

5. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].

6. "Eligible beneficiary" means a resident of this state who:

   a. (1) Is aged; or

      (2) Is at least eighteen years of age and is disabled or blind;

   b. Has applied for and is eligible to receive benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.];

   c. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:

      (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment; and

      (2) Is impaired in three of the four instrumental activities of daily living of preparing meals, doing homework, taking medicine, and doing laundry;

   d. Has countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the personal needs allowance;

   e. Has impairments that are not the result of an intellectual disability; and

f. Is determined to be eligible pursuant to rules adopted by the department.

7. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew. The family home care provider need not be present in the home on a twenty-four-hour basis if the welfare and safety of the client is maintained.

8. "Qualified service provider" means a county agency or independent contractor who agrees to meet standards for services and operations established by the department.

9. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.

Powers and duties of the department.

The department shall:

1. Administer expanded service payments for elderly and disabled and supervise and direct county agencies in the administration of expanded service payments for elderly and disabled.

2. Pay qualified service providers at rates determined by the department, within limits of legislative appropriation, for the provision of the following services provided to eligible individuals:

   a. Adult day care;

   b. Adult family foster care;

   c. Case management;

   d. Chore services;

   e. Family home care;

   f. Homemaker services;

   g. Nonmedical transportation;

   h. Respite care; and

   i. Other services the department determines to be essential and appropriate to sustain an individual in the individual's home and community and to delay or prevent institutional care.

3. Take actions, give directions, and adopt rules as necessary to carry out the provisions of this chapter.

Powers and duties of county agency.

Each county agency shall:

1. Administer expanded service payments for the elderly and disabled at the county level under the direction and supervision of the department, pursuant to state requirements.

2. Provide the services described in this chapter. The county agency may contract with a qualified service provider in the provision of those services.

3. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter.

4. Provide case management services to eligible beneficiaries.

5. Conduct initial and ongoing functional assessments of applicants.

Applicant's or guardian's duty to establish eligibility.

The applicant or guardian of the applicant shall provide information sufficient to establish eligibility for benefits, including a social security number and proof of age, identity, residence, blindness, disability, functional limitation, and financial eligibility for each month for which benefits are sought.

Department has preferred claim against estate.

Funds used to provide services to an eligible beneficiary may not be considered as gifts. The department has a preferred claim against the estate of any person for recovery of funds expended under this chapter for that person or that person's spouse or minor children. No statute of limitations or similar statute nor the doctrine of laches bars a claim under this chapter.

Responsibility for expenditures.

Except as otherwise specifically provided in section 50-03-08, expenditures required under this chapter are the responsibility of the state of North Dakota.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 369

SENATE BILL NO. 2176

(Senators G. Lee, Lyson, Murphy)
(Representatives Damschen, Holman, Pietsch)

AN ACT to amend and reenact section 50-25.1-03 of the North Dakota Century Code, relating to individuals required to report child abuse and neglect.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[124] **SECTION 1. AMENDMENT.** Section 50-25.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-03. Persons required and permitted to report - To whom reported.

1. Any physician, nurse, dentist, optometrist, dental hygienist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, addiction counselor, social worker, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile services employee, or member of the clergy having knowledge of or reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.

2. Any person having reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect, may report such circumstances to the department.

Approved April 19, 2011
Filed April 19, 2011

[124] Section 50-25.1-03 was also amended by section 2 of Senate Bill No. 2233, chapter 370.

CHAPTER 370

SENATE BILL NO. 2233

(Senators Grindberg, Cook, Warner)
(Representatives Beadle, Hogan, Owens)

AN ACT to create and enact subsection 3 to section 50-25.1-03 of the North Dakota Century Code, relating to a requirement to report sexual conduct by a child discovered on a workplace computer; and to amend and reenact subsection 4 of section 12.1-27.2-01 of the North Dakota Century Code, relating to the definition of sexual conduct as it pertains to sexual performances by children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 12.1-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Sexual conduct" means actual or simulated sexual intercourse, sodomy, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the buttocks, breasts, or genitals, including the further definitions of sodomy and sadomasochistic abuse under section 12.1-27.1-01.

[125] **SECTION 2.** Subsection 3 to section 50-25.1-03 of the North Dakota Century Code is created and enacted as follows:

3. A person who has knowledge of or reasonable cause to suspect that a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the department.

Approved April 27, 2011
Filed April 27, 2011

[125] Section 50-25.1-03 was also amended by section 1 of Senate Bill No. 2176, chapter 369.