

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1052

Introduced by

Legislative Management

(Workers' Compensation Review Committee)

1 A BILL for an Act to amend and reenact section 65-05-28.2 of the North Dakota Century Code,
2 relating to the workers' compensation preferred provider program.

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

4 **SECTION 1. AMENDMENT.** Section 65-05-28.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **65-05-28.2. Preferred provider - Use required - Exceptions - Notice.**

- 7 1. During the first thirty days after a work injury, an employee of an employer ~~who~~that has
8 selected a preferred provider under this section may seek medical treatment only from
9 the preferred provider for the injury. Treatment by a provider other than the preferred
10 provider is not compensable and the organization may not pay for treatment by a
11 provider who is not a preferred provider, unless a referral was made by the preferred
12 provider. A provider who is not a preferred provider may not certify disability or render
13 an opinion about any matter pertaining to the injury, including causation,
14 compensability, impairment, or disability. This section does not apply to emergency
15 care nor to any care the employee reasonably did not know was related to a work
16 injury.
- 17 2. An employee of an employer ~~who~~that has selected a preferred provider may elect to
18 be treated by a different provider provided the employee makes the election and
19 notifies the employer in writing ~~prior to~~before the occurrence of an injury.
- 20 3. After thirty days have passed following the injury, the employee may make a written
21 request to the organization to change providers. The employee shall make the request
22 and serve it on the employer and the organization at least thirty days ~~prior to~~before
23 treatment by the provider. The employee shall state the reasons for the request and
24 the employee's choice of provider.

- 1 4. If the employer objects to the provider selected by the employee under subsection 2 or
2 3, the employer may file an objection to the change of provider. The employer shall
3 detail in the objection the grounds for the objection and shall serve the objection on
4 the employee and the organization within five days of service of the request. The
5 employee may serve, within five days of service of the employer's objection, a written
6 response on the employer and the organization in support of the request for change of
7 provider. Within fifteen days after receipt of the response or of the expiration of the
8 time for filing the response, the organization shall rule on the request. Failure of the
9 organization to rule constitutes approval of the request. Treatment by the employee's
10 chosen provider is not compensable until the organization approves the request. The
11 preferred provider remains the treating provider until the organization approves the
12 employee's request to change providers.
- 13 5. An employer that selects a preferred provider shall give notice and post notice as
14 required under this subsection.
- 15 a. An employer shall give written notice of the identity and the terms of the preferred
16 provider program:
- 17 (1) To the employer's employees when the employer makes an initial selection
18 of a preferred provider or
- 19 (2) To the employer's employees when the employer changes the selection of
20 the preferred provider. An employer shall give written notice identifying the
21 selected preferred provider to every
- 22 (3) To an employee hired after the selection was made at the time of hire.
- 23 (4) To all employees at least annually after the initial notice.
- 24 (5) To an employee when the employee notifies the employer of an accident
25 under section 65-05-01.2, but in no case more than two business days
26 following the employee's notification of the employer.
- 27 b. An employer ~~who~~that has selected a preferred provider shall display notice of the
28 identity of the preferred provider and the terms of the preferred provider program
29 in a conspicuous manner at fixed worksites, and wherever feasible at mobile
30 worksites, and in a sufficient number of places to reasonably inform employees of

- 1 the identity of the preferred provider and of the requirements of this sectionterms
2 of the preferred provider program.
- 3 c. Failure to give written notice ~~or~~, to properly post notice, or to reasonably inform
4 employees of the terms of the preferred provider program as required under this
5 subsection invalidates the selection, allowing the employee to make the initial
6 selection of a medical provider.