

North Dakota

North Dakota Insurance Commission
600 E. Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440

Summary of Important Regulations

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| MEWA Regulations | No |
| TPA Regulations | Yes |
| Stop-Loss Regulations | No |
| UR Regulations | Yes |

NAIC Model Laws or Regulations

| <u>Name of Model Law/Regulation</u> | <u>Model/Similar</u> | <u>Related</u> |
|--|---|---|
| Health Insurance Reserves Model Regulation | None | None |
| Comprehensive Health Ins. Cost Containment Model Net | None | N.D. Cent. Code §§ 26.1-08.01 to 26.1-08.12 N.D.Admin. Code §§ 45-06-02-01 to 45-06-02-03 |
| Standardized Health Claims Form Model Regulation | N.D.Admin. Code §§ 45-06-03.1-01 to 45-06-03.1-03 | N.D. Cent. Code § 26.1-36-37-1 N.D. Admin. Code §§ 45-06-03- 01 to 45-06-03-02 |
| Small Employer Health Ins. Availability Model Law | N.D. Cent. Code §§ 26.1-36.3-01 to 26.1- 36.3-12 | N.D. Cent. Code §§ 26.1-36.4 -01 to 26.1-36.4-07 |
| Model Regulation To Eliminate Unfair Sex Discrimination | N.D.Cent. Code §§ 45-03-10-01 to 45-03-10-04 | None |
| Health Information Privacy Model Law | None | N.D. Cent. Code § 26.1-36-12.4 |
| Preferred Provider Arrangements Model Law | N.D. Cent. Code §§ 26.1-47-01 to 26.1-47-07 | None |
| Utilization Review Model Law | None | N.D. Admin. Code §§ 26.1-26.4-01 to 26.1-26.4-05; Bulletin 92-1 |
| Managed Care Plan Network Adequacy Model Law | None | None |
| Third Party Administrator Law | N.D. Cent. Code §§ 26.1-27-01 to 26.1-27-12 | None |

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| Health Examination Benefits Availability Law | None | None |
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NAIC Model Laws or Regulations

| <u>Name of Model Law/Regulation</u> | <u>Model/Similar</u> | <u>Related</u> |
|--|--|----------------|
| Accident and Sickness Insurance Minimum Standards Model Law | None | None |
| Agents and Brokers Licensing Model Law | N.D. Cent. Code §§ 26.1-26-01 to 26.1-26-50 | None |
| MEWA Licensing Model Law | None | None |
| Managing General Agents Law | N.D. Cent. Code §§ 26.1-26.3-01 to 26.1-26.3-07 | None |
| Health Maintenance Organization Model Law | N.D. Cent. Code §§ 26.1-18.1-01 to 26.1-18.1-25 | None |
| Insurance Information and Privacy Protection Law | None | None |
| Unfair Trade Practices Law | N.D. Cent. Code §§ 26.1-04-19 | None |
| Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment | None | None |
| Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of | N.D. Cent. Code §§ 26.1-04-031; 26.1-04-05.1 | None |

Total or Partial Blindness

NAIC Model Laws or Regulations

| <u>Name of Model Law/Regulation</u> | <u>Model/Similar</u> | <u>Related</u> |
|--|-------------------------------|----------------|
| Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law | None | HB 1238 |
| Unfair Claims Settlement Practices Law | N.D. Cent. Code §§ 26.1-04-03 | None |
| Improper Termination Practices Law | None | None |
| Employee Leasing Registration Model Law | None | None |
| Private Employer Workers' Compensation Group Self-Insurance Model Law | None | None |
| Public Employee Workers' Compensation Group Self-Insurance Model Law | None | None |
| Twenty Four Hour Coverage Pilot Project Model Law | None | None |

State-Mandates

Benefits That Must Be Covered

- Alcoholism treatment
- Breast reconstruction
- Complications of pregnancy
- Dental anesthesia
- Drug abuse treatment
- Formula for PKU
- Mammography screening
- Mental health, general
- Minimum maternity stays
- Prostate cancer screening
- TMJ disorders

Benefits That Must Be Offered

- Chiropractic care
- Prescription drugs

Persons Who Must Be Allowed Coverage

- Adopted children
- Continuation/dependents
- Continuation/employees
- Conversion to non-group
- Handicapped dependents
- Newborns
- Non-custodial children

Providers Who Must Be Covered

- Chiropractors
- Dentists
- Licensed Health Professionals
- Nurses
- Nurse Midwives
- Nurse Practitioners
- Nurse Psychiatric

- Optometrists
- Pharmacists
- Psychologists
- Social Workers

Coordination of Benefits

- Birthday Rule? Yes
- Divorced/Separated Rule? Yes
- Joint Custody Rule? No
- Active v. Inactive Rule? Yes
- Longer v. Shorter Rule? Yes
- Managed Care Rule? No
- COBRA Rule? No
- Preservation Rule? Yes

Patient's Bill of Rights Legislation

None

High Risk Health Pool

Yes – capped at 135%

External Grievance System

None

Prompt Payment of Health Claim Requirement

Yes - 15 days

Miscellaneous

- North Dakota also mandates that health plans cover special foods and food products for the treatment of inherited metabolic diseases.
- One baseline
- Medical foods used to treat inherited metabolic disorders must be covered if the plan also provides prescription drug coverage.
- Surgical services covered must be by the terms of a contract, regardless of the place of service.
- Diagnostic services performed by a physician outside of a hospital in lieu of inpatient service must be covered if in-patient service would have been covered.
- Services performed in a hospital's outpatient department or freestanding surgical facility must be covered if such services would have been covered if performed as inpatient services.
- Mammography screening for diagnostic purposes on referral by the covered individual's physician must be covered; where coverage is provided for surgical services for mastectomy, including a baseline mammogram for a woman from ages 35 to 39, a mammogram every two years or more

frequently, based on the recommendation of her physician for a woman 40 to 49 years of age, and one mammogram every year for a woman 50 years of age and over.

- Incidental coverage for breast reconstructive surgery and at least two external postoperative prostheses, where the surgical expense of a mastectomy is covered, subject to the terms and conditions of the policy must be covered.
- Group disability insurance contracts are not required to reimburse for ophthalmic materials, lenses, spectacles, eyeglasses, or appurtenances.
- Arizona prohibits AIDS-related questioning by insurance of applicants. Insurers, however, would be allowed to consider positive AIDS-virus test results when deciding whether to provide coverage. Also under the rule, coverage that includes prescription drugs would have to include AIDS drugs. The treatment of AIDS could not be excluded from coverage. The proposal would apply to life and disability insurance policies and health care plans.
- Arizona prohibits a party in actions for divorce, legal separation or annulment from removing the other party or the children of the parties from any existing insurance coverage, including medical, hospital and dental insurance and requires both parties to maintain all insurance coverage in full force and effect.
- Arizona law requires health plan contracts that provide coverage for diabetes to maintain coverage for equipment and supplies for self-management of diabetes as well.
- Arizona requires revised utilization review procedures for health care insurers, including the addition of notice requirement. Under the new rule, three business days after receiving a notice of decision from an independent reviewer, a health plan's agent must provide notice to the health care insurer, the member's treating provider.

MEWA Regulation

North Dakota does not regulate MEWAS.

TPA Regulations

The state of North Dakota adopted an administrator law in 1983.¹ No criminal penalties result from violations.

- Taxes and fees -- initial and renewal fee of \$25
- Records -- five-year retention.
- Bond – no bond is required
- Registration – the certificate is annually renewable.

It will not be issued if certain problems exist:

1. Previously denied insurance license (five years)
2. Previously denied administration license (five years)
3. Previously denied business license
4. Previous disciplinary action
5. Insolvency or bankruptcy within past five years
6. Previous felony conviction (ten years)
7. Previous cancellation of insurers/TPA administration agreement

The Insurance Commissioner may revoke or suspend the TPA's license after notice and hearing. The Commissioner may also fine the TPA up to \$10,000. License revocation may result from incompetence, untrustworthiness, financial irresponsibility, and poor reputation.

Stop-Loss Regulation

No regulation is reported.

Utilization Review Regulations

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|---------------------------------------|-------------------------------|
| Agency Responsible ² | Dept. of Insurance |
| Requirements | Registration-Certification |
| Exemptions | None |
| Waivers | If otherwise approved by UARC |

Miscellaneous

Small Group Reform

A committee appointed by the Commissioner of Insurance will recommend the form and level of coverages that small employer carriers will be required to make available to small employers under a basic health benefit plan and standard health plan. Coverage mandated under existing insurance laws will not apply under the basic plan.³

After the later of 180 days after the Commissioner approves the plans or the date that a small employer reinsurance plan is created, a small employer will be able to obtain either the standard plan or the basic plan. To be eligible, the employer must have employed on at least 50% of the working days during the preceding calendar quarter, at least 3 but not more than 25 eligible employees, the majority within the state. An eligible employee is one working full-time with a normal workweek of 30 hours or more and may be an independent contractor, a sole proprietor, or a partner in a partnership, but not a part-time, temporary, or substitute employee. For coverage to be made available to a small employer, a portion of the premium or benefits must be paid by, or on behalf of, the employer.

Coverage need not be offered by the insurer if the small employer is not physically located in the insurers established geographic service area. It also need not be offered to an employee who does not work or reside with that established geographic service area, but coverage must be offered to all eligible employees and employee dependents.

MSA Legislation⁹

No action.

State Premium Taxes

All carriers are taxed at 1.75%; HMOs get tax credit for a state home office and examination fees.

Managed Care

North Dakota establishes a system of comprehensive regulation of the utilization review industry, including state certification requirements. Law also stipulates that the standards may be considered met if the utilization review agent receives approval or accreditation by a private utilization review accreditation organization. North Dakota allows any pharmacist or pharmacy willing to accept the terms and conditions of participation set forth by a PPO network to participate.

Continuation of Coverage and Conversion of Benefits

North Dakota law requires employers to allow continuation coverage under group policies for up to 39 weeks for employees and their dependents who would otherwise lose coverage due to termination of employment or group membership.⁴ To be eligible for continuation coverage, members must have been covered by the group plan for the three months prior to the termination of coverage. Individuals must apply for coverage and pay the first premium within 31 days of the loss of coverage. Individuals who are covered by Medicare or other insurance are not eligible for continuation coverage. Continuation benefits do not have to include vision or dental coverage.

Registration of Self-Funded Plans⁵

A self-funded plan must register with the state Insurance Department. If the plan cannot show that it is subject to the jurisdiction of some other state or federal agency, it must meet certain solvency requirements and must comply with the insurance code.

Endnotes

¹ N.D. Cent. Code § 26.1-27.

² N.D. Cent. Code §§ 5-01-02.

³ N.D. Cent. Code §§ 26.1-36-8 and 26.1-36.2-.01 to 26.1-36.2-.08.

⁴ N.D. Cent. Code §§ 26.1-36-32.1 *et seq.*

⁵ Ins. Dept. Bulletin HB 1225.