

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

SENATE BILL NO. 2271
(Senators Cleary, Dever, Lee)
(Representatives Beltz, Ista, McLeod)

AN ACT to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

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. "Adult residential facility" means a licensed basic care facility that meets the program and provider requirements of the Medicaid 1915(c) home and community-based services aged and disabled waiver, specializing in the care of individuals eligible for services under a medical assistance home and community-based waiver or similar program with chronic moderate to severe memory loss or significant emotional, behavioral, or cognitive impairment, which provides therapeutic, social, and recreational programming and assistance with activities of daily living and instrumental activities of daily living.
2. "Aged" means at least sixty-five years of age.
- ~~2.3.~~ "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.].
- ~~3.4.~~ "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.
- ~~4.5.~~ "Department" means the department of health and human services.
- ~~5.6.~~ "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.].
- ~~6.7.~~ "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. (1) 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.], 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.]; or
 - (2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an asset test

established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02;

- 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; 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
- e. Is determined to be eligible pursuant to rules adopted by the department.

~~7-8.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

~~8-9.~~ "Institution" means a facility licensed under chapter 23-09.3.

~~9-10.~~ "Living independently" includes living in congregate housing. The term does not include living in an institution.

~~40-11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.

~~44-12.~~ "Proprietor" means an individual responsible for day-to-day administration and management of a facility.

~~42-13.~~ "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.

~~43-14.~~ "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 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 amount allowed as the personal needs allowance.

SECTION 2. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Adult residential facility payment rates - Report.

1. The department shall require an adult residential facility to submit cost reports and supplemental information by October 31, 2025, which the department shall use to pay the facility its current costs beginning January 1, 2026.
2. The department shall require adult residential facilities to submit cost reports and supplemental information by December 31, 2026, which the department shall use to provide a rate recalculation beginning July 1, 2027.

SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT. The department of health and human services shall submit a report to the legislative management by January 31, 2026, and August 31, 2026, regarding progress on the basic care study recommendations addressing the adult residential facility

and basic care payment systems, and review the asset limit for home and community-based services aged and disabled waiver.

SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - PAYMENT MODEL CONTINUUM RECOMMENDATIONS - LEGISLATIVE MANAGEMENT REPORT.

1. During the biennium beginning July 1, 2025, and ending June 30, 2027, the department of health and human services shall make recommendations for the development of a basic care, assisted living, and adult residential facilities payment model continuum. The recommendations must include:
 - a. Appropriate methods for reimbursing property costs;
 - b. Options to calculate operating margin;
 - c. The methodology for applying annual inflationary adjustments, including whether an independent inflation index should be utilized;
 - d. Rate determination for specialized basic care services provided to individuals with a dementia-related diagnosis or head injury; and
 - e. A new licensing structure that includes assisted living, basic care, and adult residential facilities.
2. The department of health and human services shall collaborate with providers and key stakeholders to develop the recommendations.
3. The department of health and human services shall report the recommendations to the the legislative management by August 30, 2026.

SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary, to the department of health and human services for the purpose of administering adult residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

Kyle Davison
President of the Senate

Rob Wilson
Speaker of the House

Sharon Myers
Secretary of the Senate

Bruce J. Reich
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2271.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 88 Nays 5 Absent 1

Sharon Myers
Secretary of the Senate

Received by the Governor at 9:41 A M. on April 29th, 2025.

Approved at 4:10 P M. on April 30th, 2025.

[Signature]
Governor

Filed in this office this 1st day of May, 2025,
at 6:53 o'clock P M.

Michael Howe
Secretary of State