

CHAPTER 50-06
DEPARTMENT OF HUMAN SERVICES

50-06-01. Definition.

As used in this chapter, unless the context otherwise requires, "department" means the department of human services.

50-06-01.1. Department of human services to be substituted for public welfare board of North Dakota and social service board of North Dakota, members of board, and executive director.

When the terms "public welfare board of North Dakota", "social service board of North Dakota", "executive director of the public welfare board", "executive director of the social service board", "member of the public welfare board", or "member of the social service board", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, appear in the North Dakota Century Code, the term "department of human services", or the term "executive director of the department of human services", as the case may be, must be substituted therefor. It is the intent of the legislative assembly that the department of human services must be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the public welfare board of North Dakota or by the social service board of North Dakota.

50-06-01.2. Department of human services - Creation.

The department of human services is created to assume the functions, powers, and duties of the following governmental agencies:

1. The social service board of North Dakota, including all of the statutory authority and responsibilities set out in chapters 27-21, 50-06, 50-06.1, 50-09, 50-11, 50-11.1, 50-12, 50-18, 50-19, 50-21, 50-24.1, and 50-25.1.
2. The mental health and retardation division of the state department of health as established by chapter 25-10, including the state hospital and any other institutions under the jurisdiction of the mental health and retardation division.
3. The division of alcoholism and drug abuse of the state department of health as established by chapter 54-38.
4. The state council on developmental disabilities as established by section 25-01-01.1.

50-06-01.3. Appointment of executive director - Compensation.

The governor shall appoint the executive director of the department who shall serve at the pleasure of the governor. The executive director shall take the oath of office required of civil officers by section 44-01-05. The executive director is entitled to receive compensation in the amount established by the governor within the limits of legislative appropriations.

50-06-01.4. Structure of the department.

The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

1. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, state youth authority, licensure of day care homes and facilities, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.

2. Administration of programs for persons with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
3. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult family care homes, committee on aging, and the fund matching program for city or county tax levies for senior citizen activities and services.
4. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.
5. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.
6. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.
7. Administration of medical service programs, including medical assistance for needy persons, early and periodic screening, diagnosis and treatment, utilization control, and claims processing.

The executive director shall consult with and maintain a close working relationship with the state department of health; with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for developmentally disabled persons; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with county social service agencies.

50-06-01.5. Office and office equipment.

The department must be provided with suitable offices in the state capitol. The department may purchase through the office of management and budget, out of the funds appropriated, any furniture, office and filing equipment, office supplies, stationery, and postage necessary for the efficient conduct of department business.

50-06-01.6. Human services advisory board - Membership - Meetings - Compensation and expenses - Responsibilities.

Repealed by S.L. 1995, ch. 457, § 6.

50-06-01.7. Mental health division - Administration.

The department of human services shall administratively restructure the mental health division to require the division to develop and revise, when necessary, the state mental health plan and provide the mental health division the authority to implement and supervise a unified mental health delivery system and to assure the mental health services provided by the human service centers, the state hospital, and contracted services are in accordance with the state plan.

50-06-01.8. Department to seek waiver to establish training, education, employment, and management program - Waiver may be terminated - Program characteristics - Cooperation with governmental bodies - Interim rulemaking.

Repealed by S.L. 2001, ch. 418, § 6.

50-06-01.9. Criminal history record checks.

The department may require criminal history record checks as the department determines appropriate for:

1. Employees of the department upon hiring;
2. Providers licensed by the department under chapter 50-12, as well as for any employees of those providers; and
3. Applicants for early childhood services licensure, nonlicensed holders of a self-declaration, and in-home providers under chapter 50-11.1. The department also may require criminal history record checks for new staff members of those applicants, providers of an applicant, and a provider if the provider is providing early childhood services within the provider's home.

50-06-02. Social service board - Members - Appointment.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-03. Social service board - Term of office - Removal.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-03.1. Social service board members with unexpired terms.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-04. Members of board - Compensation.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-05. Officers and meetings of board.

Repealed by S.L. 1983, ch. 82, § 154.

50-06-05.1. Powers and duties of the department.

The department has the following powers and duties to be administered by the department through its state office or through regional human service centers or otherwise as directed by it:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of deprived, unruly, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate social legislation to the legislative assembly.
8. To direct and supervise county social service board activities as may be financed in whole or in part by or with funds allocated or distributed by the department.
9. To inform the public as to social conditions and ways of meeting social needs.
10. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in

- accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
11. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department including child care facilities, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
 12. To permit the making of any surveys of human service needs and activities if determined to be necessary.
 13. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
 14. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, county social service board, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
 15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.
 16. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, all reports to be kept confidential for use by the judge except as may be disclosed by the judge.
 17. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Unless at least seven years has elapsed since the most recent felony conviction that has as an element the possession, use, or distribution of a controlled substance, the department shall deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
 18. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing assistance payments, and rental subsidies under any rental assistance programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction.
 19. To act as the official agency of the state in the administration of the energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated

- at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits.
20. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
 21. To exercise and carry out any other powers and duties granted the department under state law.
 22. To coordinate services for pregnant women.
 23. To administer, allocate, and distribute any funds made available for the payment of transitional living services, to develop standards and conduct needs assessments regarding transitional living services, to develop or approve and to evaluate demonstration projects offering transitional living programs, to approve transitional living facilities for the purpose of providing foster care, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection. For purposes of this subsection:
 - a. "Transitional living facility" means a specific site, identified by a licensed child-placing agency and approved by the department, for the provision of transitional living services.
 - b. "Transitional living program" means a program that provides transitional living services and may include an identified program operations location approved by the department.
 - c. "Transitional living services" may include housing, supervision, and supportive services intended and designed to assist persons who have received foster care services and who have reached age seventeen, but who have not reached age twenty-one, to achieve independence and self-sufficiency.
 24. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
 25. To act as a decedent's successor for purposes of collecting amounts due to the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
 26. To provide those services necessary for the department and for county social service boards to comply with the provisions of any law, rule, order, or regulation of the United

- States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
27. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
 28. Notwithstanding section 50-01.2-00.1, to determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

50-06-05.2. Regional human service centers - Licensure - Collocation with county social service boards.

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. Services provided by regional human service centers must include those services formerly provided by mental health and retardation service units and area social service centers. The regional human service centers are subject to licensing by the department. The department shall adopt rules and standards for the licensing and operation of the regional human service centers. No human service center may operate without a license issued hereunder. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers. Any county social service board collocating its offices with a regional human service center must, within the limits of legislative appropriations, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.

50-06-05.3. Regional human service centers - Powers - Duties - Human service advisory groups.

1. Regional human service centers organized under this chapter are those centers established to provide human services as authorized by law. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, food and nutrition, and housing service. Regional human service centers shall function as regional administrative units established, within the multicounty areas designated by the governor's executive order 1978-12 dated October 5, 1978, to provide for the planning and delivery of human services.
2. Regional human service centers shall provide human services to all eligible individuals and families to help them achieve or maintain social, emotional, and economic self-sufficiency; prevent, reduce, or eliminate dependency; prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests; aid in the preservation, rehabilitation, and reuniting of families; prevent or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care; secure referral or admission for institutional care; provide outpatient diagnostic and treatment services; provide information concerning guardianship to people interested in becoming or who are guardians; and provide rehabilitation services for patients with mental or emotional disorders, an intellectual disability, and other psychiatric conditions, particularly for those patients who have received prior treatment in an inpatient facility. Regional human service centers shall deliver services in the manner prescribed by the department.
3. The director shall appoint a human service advisory group for each human service center consisting of up to thirteen members. Each group member must be a resident of the region the member is appointed to serve. The director shall appoint two current county commissioners and one current county social service board member to serve as members of a human service advisory group. The director may appoint an additional current commissioner to serve in lieu of the current county social service

board member. The terms of office must be two years and arranged so that the term of one-half of the members expires at the end of the first year and the term of the remaining members expires at the end of the second year. The director shall select the members of each human service advisory group on the basis of population of the counties in the region served by the human service center. Each county in the region must be represented by at least one member on the human service advisory group. To the extent possible, membership of the advisory group must reflect regional interests in the fields of developmental disabilities, social services, mental health, and alcoholism and drug abuse. The director shall appoint a chairman for each advisory group from the membership of the advisory group. The director shall fill a vacancy occurring within an advisory group for other than the expiration of a term in the same manner as original appointments, except that appointments must be made only for the unexpired term. The department shall compensate members of a human service advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The department also shall pay members for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

50-06-05.4. Duties of human service advisory groups.

Each human service advisory group of the regional human service centers shall perform the following duties:

1. Provide information to the department relative to needs assessment and the planning and development of health and social resources for the effective and efficient delivery of high-quality human services fully accessible to all citizens.
2. Review services and programs provided by the regional human service centers and make periodic recommendations the advisory group may have for improvement in services, programs, or facilities.
3. Promote cooperation and working agreements with private human service agencies.
4. Promote local and regional financing from public and private sources.

50-06-05.5. Director of regional center - Medical director.

Each regional human service center must be headed by a regional director appointed by the executive director of the department. The regional director must be accountable to the executive director or the director's designee. Each regional director may employ the staff necessary to discharge the center's responsibilities. A regional director, subject to the approval of the executive director of the department or the director's designee, and within the limit of legislative appropriations, may make contractual arrangements with public or private agencies or with individuals and organizations to discharge the regional human service center's service delivery responsibilities. Each regional director shall hire a qualified medical professional who must be designated as the medical director of the center. The medical director is responsible for coordinating mental health and medically related services. The medical director's position may be part time or full time as determined appropriate by the regional director, with the concurrence of the executive director or the director's designee. The executive director or the director's designee may appoint the regional director of a center to be the medical director of that center, provided the regional director is qualified to be the medical director. As used in this section, "qualified medical professional" means an individual possessing a degree of doctor of psychiatry, when such an individual can be employed, and when this is not possible, an individual possessing at least a medical degree.

50-06-05.6. Committee on aging - Appointment - Expenses.

There is hereby established a committee on aging. The governor shall appoint each committee member for a term of three years, staggered so that the terms of one-third of the members of the committee expire July first of each year, except that initial appointments to the committee must be made on the basis of a one-year term for one-third of the members of the committee; a two-year term for one-third of the members of the committee; and a full three-year

term for the remaining members of the committee. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term. The members must be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers.

50-06-05.7. Multicounty agreement to administer social service programs - Selection of regional administration.

If two or more counties enter an agreement to jointly administer a program that is under the supervision of the department of human services, a county that is party to the agreement may request designation of a regional human service center for program supervision. The human service center requested must be providing supervision to one or more of the counties party to the multicounty agreement. Within six months of the request, the department of human services shall implement the county's request for the designation or negotiate with the county to reach an agreeable alternative. If the department of human services and the requesting county have not agreed on an alternative within six months of the request, the requesting designation must be implemented. A request for a change in the designation of a regional human service center may not be made for three years after a designation, unless the membership of the multicounty agreement changes.

50-06-06. Powers and duties of the board.

Repealed by S.L. 1971, ch. 466, § 8.

50-06-06.1. Indians - General assistance contract authorized.

The department may execute contracts or agreements with the government of the United States or the appropriate federal agency to make the services of the state and counties of the state available in providing general welfare assistance or county general assistance under chapter 50-01, to Indian citizens in all counties of the state in which no Indian reservation or part of an Indian reservation is located. The contracts must provide that any Indian citizen of this state who has a residence on a reservation located in this state or in any county of the state containing an Indian reservation or part of an Indian reservation, and who has not acquired a residence for welfare purposes as required by the public welfare laws of this state in another county not containing an Indian reservation or part of an Indian reservation, is entitled to receive general assistance or county general assistance from the county social service board of a nonreservation county in which the citizen is located upon the same basis and according to the same standards as general assistance or county general assistance is provided for residents of the county. The contract or agreement also must provide that all cost of general assistance or county general assistance payments for Indian citizens located in nonreservation counties who have not acquired residence for welfare purposes, plus amounts agreed upon as reasonable costs of administration, must be paid as reimbursement to the nonreservation county providing the county general assistance payments to the Indian citizens by the United States until the Indian citizens acquire a residence in the county for county general assistance purposes. The contract may provide that if an Indian citizen has lived and has been domiciled in the nonreservation county for a period of twenty-four months, but has not acquired residence for county general assistance purposes in the nonreservation county, the responsibility of the United States to reimburse that county for general assistance or county general assistance payments and costs of administration ceases, and the department shall reimburse the nonreservation county for those costs until the Indian citizen acquires residence for county general assistance purposes in the nonreservation county. The agreement or contract must contain other provisions determined by the department to be necessary to properly administer this program of general assistance or county general assistance and must contain a provision for the termination of the contract or agreement upon reasonable notice by the state.

50-06-06.2. Clinic services - Provider qualification - Utilization of federal funds.

Within the limits of legislative appropriation therefor and in accordance with rules established by the department, the department may defray the costs of preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished medical assistance eligible individuals by regional human service centers. Within the limits of legislative appropriations and to the extent permitted by state and federal law and regulations established thereunder, it is the intent of the legislative assembly that federal funds available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray the costs of identifiable mental health clinic services furnished eligible individuals in regional human service centers and that federal funds available under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable social services furnished eligible individuals by county social service boards and regional human service centers.

50-06-06.3. Facility staff training.

It is the intent of the legislative assembly that the department of human services design and implement a facility staff training system in cooperation with the board of higher education to assure adequate and appropriate staff development and training for the providers of community-based care on behalf of developmentally disabled persons.

50-06-06.4. Comprehensive community residential program.

It is the intent of the legislative assembly that the department of human services implement a comprehensive community residential program for developmentally disabled children, including the use of intermediate care facilities and other such foster home and group home resources as deemed appropriate.

50-06-06.5. Continuum of services for chronically mentally ill individuals.

The department of human services shall develop a plan for an integrated, multidisciplinary continuum of services for chronically mentally ill individuals. The continuum may consist of an array of services provided by private mental health professionals, private agencies, county social service agencies, human service centers, community-based residential care and treatment facilities, and private and public inpatient psychiatric hospitals. To the extent feasible, access to the continuum must be through human service centers. Within the limits of legislative appropriations, the plan for a continuum may include:

1. Programs, and appropriate related facilities, to provide socialization skills.
2. Programs, and appropriate related facilities, to provide basic living skills.
3. Appropriate residential facilities.
4. Appropriate training, placement, and support to enhance potential for employment.
5. Appropriate delivery and control of necessary medication.
6. Appropriate economic assistance.
7. An inpatient facility with appropriate programs to respond to persons who require hospitalization.

The continuum of care must provide that a person requiring treatment be submitted to the least restrictive available conditions necessary to achieve the purposes of treatment. The department shall ensure appropriate cooperation with county social service agencies and private providers in achieving the continuum of care.

50-06-06.6. Department of human services may lease real and personal property.

The executive director of the department of human services may lease surplus farm and pastureland at the state hospital and the life skills and transition center. The executive director also may enter into further leases of real or personal property at the life skills and transition center or the state hospital upon a specific finding that the granting of each such leasehold interest, except those relating to child care services, will result in a net economic gain for the department, taking into account all identifiable costs. Any lease of space for the purpose of providing child care services must meet requirements as determined by the department. The executive director may prescribe the terms and conditions of any leases entered into pursuant

to this section and may renew existing leases. Any lease entered into must be subject to renewal or cancelable each biennium. Any lease or lease renewal of unneeded building or building space may be made only after consultation with the administrator of the state fire and tornado fund.

50-06-06.7. Sale of surplus steam heat - Terms - Not to be construed as the distribution of heat.

The department, with the approval of the governor, is authorized but not required to determine if surplus steam heat is or may be produced at the life skills and transition center, and to sell any surplus steam heat to the city of Grafton. The sale may be on such terms and conditions as may be deemed necessary by the department, provided that no sale may be made for less than the cost of producing the surplus steam heat. A sale of steam heat, if made by the department to the city of Grafton, may not be construed as the distribution of heat under title 49.

50-06-06.8. Administration of child care block grant and at-risk child care programs.

Repealed by S.L. 1997, ch. 404, § 78.

50-06-06.9. Insurance payments by the department.

Notwithstanding any other eligibility requirements for human services programs, the department, pursuant to rules adopted by the department, may pay health insurance premiums, copayments, and deductibles for a person with human immunodeficiency virus infection, or for any person maintaining a health insurance policy covering a person with human immunodeficiency virus infection if:

1. The payment of premiums, copayments, and deductibles is determined to be a cost-effective alternative to the payment of future medical assistance and economic assistance costs for that person; and
2. The department determines that the person is otherwise unable to afford the cost of the premiums, copayments, and deductibles.

50-06-06.10. Family life education program.

The department of human services shall enter into an agreement with the North Dakota state university extension service for the design of a program to educate and support individuals at all points within the family life cycle. The program must provide support for families and youth with research-based information relating to personal, family, and community concerns and must contain a research component aimed at evaluation of planned methods or programs for prevention of family and social problems. The program must address the following interrelated topics:

1. Child and youth development.
2. Parent education with an emphasis on parents as educators.
3. Human development.
4. Interpersonal relationships.
5. Family interaction and family systems.
6. Family economics.
7. Intergenerational issues.
8. Impact of societal changes on the family.
9. Coping skills.
10. Community networks and supports for families.

50-06-06.11. Child care provider payments.

Within the limits of federal regulations, the department of human services, at the election of the early childhood facility, shall directly pay early childhood facilities monthly under child care assistance programs administered by the department.

50-06-06.12. Child care provider reimbursement system.

Repealed by S.L. 1995, ch. 462, § 2.

50-06-06.13. Treatment services for children with serious emotional disorders.

The department shall establish in all human service regions a program to provide out-of-home treatment services for a medicaid-eligible child with a serious emotional disorder. The department may not require a parent or legal guardian to transfer legal custody of the child in order to have the child placed in an out-of-home treatment program when the sole reason for the placement is the need to obtain services for the child's emotional or behavioral problems. With departmental approval, a parent with legal and physical custody of the child may obtain treatment services for the child through the program. A parent without physical custody of a child, who disagrees with a child's treatment under this section, may request a judicial determination regarding the child's treatment.

50-06-07. Office and office equipment.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-08. Executive director and employees - Appointment - Compensation.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-09. Executive director - Qualifications - Term of office.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-10. Executive director - Oath of office - Bond.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-11. Reciprocal agreements by department.

The department, with the approval of the attorney general, may:

1. Enter into reciprocal agreements with corresponding state agencies of other states having like statutory authority, regarding the interstate residence, care, and transportation of indigent persons.
2. Arrange with the proper officials in this state for:
 - a. The acceptance, transfer, and support of persons receiving any form of public aid or relief or likely to become a public charge in other states; and
 - b. The acceptance, transfer, and support of persons from another state receiving any form of public aid or relief or likely to become a public charge in this state, in accordance with the terms of the reciprocal agreement with other states.

50-06-12. County bound by reciprocal agreements of department - Duty of state and county when person determined not entitled to support.

Any agreement made by the department under the provisions of section 50-06-11 for the acceptance, transfer, and support of any person from another state is binding on the county where such person is residing. Neither this state nor any county in this state shall be committed to the support of any person who is held by the department not to be entitled to public support under the laws of this state.

50-06-13. Biennial report to governor and office of management and budget.

Repealed by S.L. 1981, ch. 486, § 37.

50-06-14. Financing of welfare programs.

All programs carried out by the department under the provisions of this title must be financed by payments out of a special operating fund maintained within the state treasury to be known as the welfare special operating fund. The executive director of the department or such other person as the department may designate and the state treasurer shall deposit in the welfare special fund, at such times as they may become available, all moneys received from

any of the counties within the state, all moneys received from the United States under the provisions of the Social Security Act, such moneys as may be periodically required from legislative appropriations for public welfare purposes, and all public moneys received from any other source. All administrative expenditures made under the provisions of this title must be paid upon individual warrants prepared by the office of management and budget drawn on the state treasurer against the welfare special operating fund and signed by the state auditor after approval by the office of the budget, such expenditures to be supported by itemized vouchers signed by the executive director of the department or by such other officer or assistant as the department may designate and certify to the office of management and budget. Funds available for payments to or on behalf of recipients of assistance must be withdrawn as needed from the welfare special operating fund upon a voucher or vouchers approved and signed by the executive director of the department and by warrant-checks prepared by the office of management and budget. Any funds received from federal agencies must be deposited and disbursed as herein provided and in the manner provided by act of Congress of the United States or by the regulations of the federal agencies from which the funds were received.

50-06-14.1. Limitation on state reimbursement for rental expenses of long-term care facilities.

The department of human services shall limit the reimbursement for rental expense paid by a provider of services when a provider sells its skilled nursing facility, intermediate care facility, basic care facility, or other facility furnishing care to its residents, when a care rate is based, in part, upon property costs unique to that facility, to a third party who leases the facility back to the provider. The department's reimbursement for rental expense may not exceed the lesser of the rental expense paid by the provider or the cost of ownership of the facility. The cost of ownership includes depreciation, interest, real estate taxes, and other expenses properly related to the facility. The department of human services shall apply this limit to rates set for each facility's first fiscal year beginning on or after July 1, 1985, but shall consider, in setting such rates, all sales occurring on or after July 18, 1984.

50-06-14.2. Department to establish reasonable rates.

Repealed by S.L. 1993, ch. 2, § 28.

50-06-14.3. Department of human services to develop basic care facility ratesetting methodology.

Repealed by S.L. 1999, ch. 428, § 3.

50-06-14.4. Alzheimer's and related dementia and twenty-four-hour care projects.

Repealed by S.L. 1999, ch. 424, § 1.

50-06-15. Confidentiality of information contained in records - Penalty.

1. Individually identifiable information concerning an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department is confidential, except that any such information, including an individual's social security number, may be used and disclosed:
 - a. In the administration of any such program;
 - b. In accordance with a program's participation in the department's master client index data matching system, unless prohibited by federal law;
 - c. As specifically authorized by the rules of the department; or
 - d. As permitted or required by other law.
2. A vendor, agent, or contractor of the department must agree to maintain the confidentiality of individually identifiable information disclosed to that person by the department or by any individual applying for or receiving assistance or services and may use and disclose confidential information only to the extent that person's agreement with the department permits the use and disclosure of any such information.

3. As used in this section, "individually identifiable information" means information, including an individual's name, address, telephone number, facsimile number, social security number, electronic mail address, program identification number, or any other unique identifying number, characteristic, or code, as well as demographic information collected from an individual, that:
 - a. Is created or received by the department; and
 - b. Relates to:
 - (1) The past, present, or future assistance or services applied for or received by an individual under any program administered by or under the supervision and direction of the department that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; or
 - (2) A report, or any other information obtained, concerning an applicant or a provider of or an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department.
4. Except as otherwise specifically provided by law, a report concerning an applicant or a provider of or an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department, as well as any other information obtained, is confidential if the report is made in good faith, and may be disclosed to:
 - a. Authorized staff of the department and its authorized agents who further may disclose 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 to assure the well-being and interests of the adults or children concerned.
 - b. Any person who is the subject of the report; provided, however, that the identity of the persons reporting or supplying information under this chapter is protected until the information is needed for use in an administrative or legal proceeding arising out of the report.
 - c. Public officials and their authorized agents who require the information in connection with the discharge of their official duties.
 - d. A court, including an administrative hearing officer, when the court determines the information is necessary for the determination of an issue before the court.
 - e. 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 subsection 3 is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
5. Any person who discloses, authorizes, or knowingly permits, participates in, or acquiesces in the disclosure of any confidential information in violation of this section is subject to the penalty provided in section 12.1-13-01.

50-06-15.1. Exchange and transfer of patient records.

The department shall implement a procedure for the exchange and transfer, among treatment units within the department and treatment units of agencies under contract with the department, of records relating to the examination, custody, care, and treatment of mental health clients receiving services supported by public funds, subject to standards for confidentiality. The department shall adopt, in accordance with chapter 28-32, rules necessary to implement this section.

50-06-16. Rulemaking authority.

The department may adopt rules necessary to carry out the responsibilities of the department in conformity with any statute administered or enforced by the department. All rules adopted must be published in the North Dakota Administrative Code. Rules adopted by

agencies prior to January 1, 1982, which relate to functions or agencies covered by this chapter remain in effect until such time as they are specifically amended or repealed.

50-06-17. Biennial report - Budget estimates.

The department shall submit to the governor and the office of management and budget the biennial report and budget estimate in accordance with sections 54-06-04 and 54-44.1-04.

50-06-18. Developmental disabilities service providers.

Repealed by S.L. 2003, ch. 231, § 3.

50-06-19. Exemption from insurance premium tax.

No tax otherwise due under section 26.1-03-17 may be required of a stock or mutual insurance company, nonprofit health service corporation, or health maintenance organization with respect to service fees collected by any third-party administrator providing administrative services or premiums, capitation payments, or policy fees paid by the department for coverage or services provided to a recipient of benefits.

50-06-20. Programs funded at state expense - Interpretation.

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
 - a. Except as provided in section 50-24.1-14, services provided under chapter 50-24.1;
 - b. Benefits provided under subsection 19 of section 50-06-05.1;
 - c. Supplements provided under chapter 50-24.5 as basic care services;
 - d. Services provided under chapter 50-09 as child care assistance;
 - e. Services provided under chapter 50-09 as employment and training programs;
 - f. Welfare fraud detection programs;
 - g. Temporary assistance for needy families; and
 - h. Special projects approved by the department and agreed to by any affected county social service board.
2. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

50-06-21. Compulsive gambling prevention, awareness, crisis intervention, rehabilitation, and treatment services.

The department of human services shall contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services. The program may provide outpatient services, partial care services, aftercare services, intervention services, financial counseling services, consultation services, or other forms of preventive, rehabilitative, or treatment services for compulsive gamblers. An individual who provides treatment services must be a mental health professional as defined in section 25-03.1-02 and meet the minimum standards for certification as a gambling counselor as established by rule by that mental health professional's licensing board. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department of human services may establish a sliding payment scale for services under the program. The department of human services may establish a centrally located repository of educational materials on identifying and treating compulsive gambling. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's compulsive gambling services. The term "qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering compulsive gambling education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services as defined by the department of human services. The term "compulsive gambler"

means an individual who is chronically and progressively preoccupied with gambling and the urge to gamble and with gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

50-06-22. Compulsive gambling prevention and treatment fund - Continuing appropriation.

Funds deposited in the compulsive gambling prevention and treatment fund under section 53-12.1-09 are appropriated to the department on a continuing basis for the purpose of providing the services under section 50-06-21.

50-06-23. Placement of children - Least restrictive care.

The department and county social service boards shall thoroughly explore the option of kinship care when a child is unable to return home due to safety concerns. Absent kinship options, the department and county social service boards shall provide permanency options that are in the least restrictive care and near the family's home as required by the federal Adoption and Safe Family Act of 1997 [Pub. L. 105-89; 111 Stat. 2115; 42 U.S.C. 671]. Before January 1, 2006, the department of human services shall issue a request for proposal for the provision of residential treatment services to meet the needs of youth with a history of sexual offenses within the state and explore options of therapeutic foster care for those youth who would benefit from this service level.

50-06-24. Guardianship services.

The department of human services may create and coordinate a unified system for the provision of guardianship services to vulnerable adults who are ineligible for developmental disabilities case management services. The system must include a base unit funding level at the same level as developmental disability corporate guardianship rates, provider standards, staff competency requirements, and guidelines and training for guardians. The department shall adopt rules for guardianship services to vulnerable adults which are consistent with chapters 30.1-26, 30.1-28, and 30.1-29.

50-06-25. Biennial report on programs and services.

Expired under S.L. 2005, ch. 411, § 3.

50-06-26. Alternatives-to-abortion services program.

The department of human services shall disburse funds available through title IV-A of the Social Security Act [42 U.S.C. 601 et seq.] to nongovernmental entities that provide alternatives-to-abortion services and expend funds to inform the public about this program. The services must be outcome-based with positive outcome-based results. The department, in consultation with a nongovernmental entity that provides alternatives-to-abortion services, shall contract to inform the public about this program. For purposes of this section, "alternatives-to-abortion services" are those services that promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children.

50-06-27. Prescription drug monitoring program.

Repealed by S.L. 2007, ch. 212, § 2.

50-06-28. Substance abuse treatment pilot program.

Expired under S.L. 2005, ch. 414, § 4.

50-06-29. Application for aging and disability resource center funding.

No later than December 31, 2007, the department of human services shall seek federal funds for the planning and implementation of an aging and disability resource center for the state. The resource center will be a single point of information program at the community level

which will help people make informed decisions about the full range of long-term care service and support options, including both institutional and home and community-based care, and which will provide unbiased information and assistance to individuals needing either public or private resources, to professionals seeking assistance on behalf of their clients, and to individuals planning for their future long-term care needs. Upon receipt of federal funds, the department of human services may establish the aging and disability resource center or it may request bids and award a contract for the provision of this service. The duties of the aging and disability resource center must include all duties required to receive federal funds, including providing information about the full range of long-term care service and support options available in the state to assure that consumers may make informed decisions about their care. The resource center must be free from a conflict of interest which would inappropriately influence or bias the actions of a contractor, staff member, board member, or volunteer of the resource center to limit the information given to a consumer to steer the consumer to services that may also be provided by the resource center.

50-06-30. Interagency agreement between the department of human services and the department of corrections and rehabilitation.

The executive director of the department of human services and the director of the department of corrections and rehabilitation shall enter an interagency agreement effective August 1, 2007. The agreement must provide that the department of corrections and rehabilitation shall train, consult, and assist the department of human services with the provision and enforcement of safety and security procedures at state-owned facilities for all individuals placed at those facilities for evaluation or civil commitment and treatment under chapter 25-03.3 and for all staff, visitors, and volunteers at those facilities. The interagency agreement must provide that the executive director of the department of human services shall continue to be responsible for the custody and care of the individuals placed at those facilities for evaluation or civil commitment and treatment under chapter 25-03.3, including responsibility for all assessments, evaluations, and treatment required under chapter 25-03.3, the provision of all necessary staffing, including maintenance staff, and the provision of all daily care and health care.

50-06-31. Report to legislative council - Individuals committed to state hospital.

Before March first of each even-numbered year, the department of human services shall report to the legislative council on services provided by the department of corrections and rehabilitation relating to individuals at the state hospital who have been committed to the care and custody of the executive director of the department of human services.

50-06-32. Autism spectrum disorder task force - Appointment - Duties - Annual reports.

1. The autism spectrum disorder task force consists of:
 - a.
 - (1) The state health officer, or the officer's designee;
 - (2) The director of the department of human services, or the director's designee;
 - (3) The director of special education, or the director's designee; and
 - (4) The executive director of the protection and advocacy project, or the director's designee; and
 - b. The following members appointed by the governor:
 - (1) A pediatrician with expertise in the area of autism spectrum disorder;
 - (2) A psychologist with expertise in the area of autism spectrum disorder;
 - (3) A college of education faculty member with expertise in the area of autism spectrum disorder;
 - (4) A licensed teacher with expertise in the area of autism spectrum disorder;
 - (5) An occupational therapist;
 - (6) A representative of a health insurance company doing business in this state;

- (7) A representative of a licensed residential care facility for individuals with autism spectrum disorder;
 - (8) A parent of a child with autism spectrum disorder;
 - (9) A family member of an adult with autism spectrum disorder; and
 - (10) A member of the legislative assembly.
2. The director of the department of human services, or the director's designee, shall serve as the chairman. The task force shall meet at the call of the chairman, at least quarterly.
 3. The task force shall examine early intervention services, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.
 4. The task force shall develop a state autism spectrum disorder plan and present the plan to the governor and the legislative council before July 1, 2010. Thereafter, the task force shall continue to review and periodically update or otherwise amend the state plan so that it best serves the needs of individuals with autism spectrum disorder. The task force shall provide an annual report to the governor and the legislative council regarding the status of the state autism spectrum disorder plan.

50-06-32.1. (Effective through June 30, 2015) Autism spectrum disorder voucher program pilot project - Legislative management report - Appeal.

1. The department of human services shall establish a voucher program pilot project beginning July 1, 2014, to assist in funding equipment and general educational needs related to autism spectrum disorder for individuals below two hundred percent of the federal poverty level from age three to under age eighteen who have been diagnosed with autism spectrum disorder. The program may include funding for assistive technology; video modeling videos or equipment; language-generating devices; training and educational material for parents; parenting education; sensory equipment; tutors; safety equipment; travel tools; self-care equipment; timers; visual representation systems; respite care; specialized daycare; language comprehension equipment; and registration and related expenses for workshops and training to improve independent living skills, employment opportunities, and other executive or social skills.
2. The department shall adopt rules addressing management of this voucher program pilot project and establishing the eligibility requirements and exclusions for this voucher program pilot project. The program may not provide a voucher for early intensive behavioral intervention, including applied behavioral analysis, intensive early interventional behavioral therapy, intensive behavioral intervention, the Lovaas method, the Denver model, LEAP (learning experiences - an alternative program for preschoolers and parents), TEACCH (treatment and education of autistic and related communication handicapped children), pivotal response training, or discrete trial training.
3. A decision on a voucher application which is issued by the department under this section may be appealed as provided under chapter 28-32.
4. The department of human services shall report to the legislative management regarding the autism spectrum disorder program pilot project.

50-06-33. Dementia care services.

As used in this section, "dementia" means the condition of an individual involving loss of memory and impairment of cognitive functions severe enough to interfere with the individual's daily life. The department shall contract with a private provider for a dementia care services program in each area of the state served by a regional human service center. The dementia care services must include:

1. Identifying available services within the region;
2. Providing information to medical professionals, law enforcement, and the public regarding the symptoms of dementia, the benefits of early detection and treatment, and the services available to individuals with dementia and their caregivers;
3. Assessing the needs of individuals with dementia and their caregivers;
4. Training care providers to manage and provide for the care of individuals with dementia;
5. Providing consultation services to individuals with dementia and their caregivers; and
6. Facilitating the referral of individuals with dementia and their caregivers to appropriate care and support services.

50-06-34. Program for services to transition-aged youth at risk - Definition - Rules - Continuing appropriation.

1. The department shall develop, within current appropriations, a program for services to transition-aged youth at risk. The department shall use a wraparound planning process. The department shall adopt rules to establish eligibility, services, and a distinct statewide interagency advisory council on transition-aged youth at risk, with youth and family representation, and with regional subcommittees. For the purposes of this section, "transition-aged youth" means children and young adults at risk due to:
 - a. Deprivation or other activities resulting in youth being involved with the foster care or juvenile justice system;
 - b. Serious mental illness or serious disabilities that do not qualify the youth for developmental disabilities case management; or
 - c. Suicidal tendencies.
2. Services under the program must include:
 - a. Individualized assessments to determine the needs and appropriate services to individual transition-aged youth at risk;
 - b. Single plan of care to coordinate services among available service systems, emphasizing existing case management resources;
 - c. Independent living skills, including self-advocacy training;
 - d. Enhanced or extended vocational rehabilitation, including transition from education to employment and from secondary education to higher education;
 - e. In-home support, including mentors, individual and family training, and access to respite care; and
 - f. Development of a statewide independent living skills curriculum for youth and families.
3. Services to an individual youth must be appropriate to that individual and need not include all services of the program.
4. The department may accept and receive grants and other sources of funding for the development of a program for services to transition-aged youth at risk. All moneys received by the department as gifts, grants, or donations for the development of a program for services to transition-aged youth at risk under this section are appropriated on a continuing basis to the department.

50-06-35. Department of human services food assistance contracts.

The department of human services shall contract with a statewide charitable food recovery and distribution organization to develop and implement new methods of delivering charitable food assistance services in underserved counties, to include a mobile food pantry program and prepacked food basket program; expand the recovery of surplus food from the retail and wholesale food industry for distribution to charitable feeding programs; provide training, technical assistance, and equipment grants to community food pantries and emergency meal programs; and develop a cross-referral system between charitable feeding programs and government assistance programs that help clients achieve self-sufficiency.

50-06-36. Developmental disability provider review.

With respect to private providers for individuals with developmental disabilities, the department shall conduct a review of the audit and reimbursement process and a review and reconsideration of the ninety-five percent occupancy rule.

50-06-37. 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 chapter may not occur before the implementation of the department's new medicaid management information system.

50-06-38. Review and limitation.

Intermediate care facility providers shall submit all facility construction or remodeling proposals to the department of human services prior to enactment of a contract for the completion of the project. The department of human services shall review all intermediate care facility construction or remodeling proposals and may limit allowable construction and remodeling costs to ensure the costs are reasonable and appropriate.

50-06-39. Expedited ratesetting process - Nursing and basic care facilities.

The department shall establish an expedited ratesetting process by which nursing and basic care facilities may request an increase in the established rate due to additional costs incurred by the facility for providing health insurance policies to the facility's employees, to the extent those costs are directly related to the facility's compliance with the federal Patient Protection and Affordable Care Act of 2010 [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]. The process must provide that to be approved for a rate adjustment that is reflected in the facility's January 1, 2014, rates, the facility must submit the adjustment request to the department by October 1, 2013.