Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1256
(Representatives D. Anderson, Rich S. Becker, Mooney)

AN ACT to amend and reenact sections 50-06.4-01, 50-06.4-02, 50-06.4-04, 50-06.4-05, 50-06.4-06, 50-06.4-07, 50-06.4-08, 50-06.4-09, 50-24.1-33, and 54-38-05, and subsection 25 of section 65-01-02 of the North Dakota Century Code, relating to the definition of brain injury; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.4-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-01. Definitions.

As used in this chapter:

1. "Brain injury" means any injury to the brain which occurs after birth and which is acquired through traumatic or nontraumatic insults. The term does not include hereditary, congenital, nontraumatic encephalopathy, nontraumatic aneurysm, stroke, or degenerative brain disorders or injuries induced by birth trauma.

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

~~2. "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial disability or impairment, including open and closed head injuries that may result in mild, moderate, or severe impairments in one or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory perceptual and motor abilities, psychosocial behavior, physical functioning, information processing, and speech. The term does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma, but may include brain injuries caused by anoxia and other related causes.~~

SECTION 2. AMENDMENT. Section 50-06.4-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-02. Department to be lead agency - Cooperation of other agencies - Joint meeting.

The department shall act as lead agency in the state for the purpose of coordinating services to ~~persons~~individuals with ~~traumatic~~ brain injury. At least annually the department shall call a joint meeting of the adjutant general, the state department of health, the department of veterans' affairs, and the superintendent of public instruction to discuss the provision of services to individuals with ~~traumatic~~ brain injury. State agencies and political subdivision agencies shall cooperate with the department to permit the department to efficiently coordinate services to ~~persons~~individuals with ~~traumatic~~ brain injury while avoiding duplication of services. Neither this chapter, nor any activity undertaken by the department under this chapter, may be construed as creating a right to any benefit or service not specifically required to be granted as a condition of the receipt of grants of federal funds.

SECTION 3. AMENDMENT. Section 50-06.4-04 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-04. Authority to accept and expend grants, gifts, and services.

The department may apply for and accept any funds, grants, gifts, or services made available for the purpose of providing or coordinating services to ~~persons~~individuals with ~~traumatic~~ brain injury by any federal agency or department or any private agency or individual. Funds received by the department under this section must be deposited in the state treasury in a special fund designated as the ~~traumatic~~ brain injury fund and may be spent within the limits of legislative appropriation.

SECTION 4. AMENDMENT. Section 50-06.4-05 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-05. ~~Traumatic brain~~Brain injury - Prevention and identification activities.

The department shall provide outreach services and conduct public awareness efforts regarding the prevention and identification of ~~traumatic~~ brain injury.

SECTION 5. AMENDMENT. Section 50-06.4-06 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-06. ~~Traumatic brain~~Brain injury - Services and activities - Acceptance of moneys.

The department may accept and expend moneys from any public or private source, including federal sources, for any purpose involving ~~traumatic~~ brain injuries or the provision of services to individuals with ~~traumatic~~ brain injury and their families.

SECTION 6. AMENDMENT. Section 50-06.4-07 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-07. ~~Traumatic brain~~Brain injury - Informal supports - Contracts - Exemption.

1. The department shall contract with public or private entities for the provision of informal supports to individuals with ~~traumatic~~ brain injury. As used in this section, "informal supports" includes information sharing and referral services, peer mentoring, training, facilitation of support groups, public awareness efforts, and individual and programmatic advocacy efforts.

2. Any entity contracting with the department under this section must:

   a. Demonstrate expertise in serving and enhancing the quality of life for individuals with ~~traumatic~~ brain injury;

   b. Agree to work in cooperation with the department, case managers, and veterans' service officers; and

   c. Agree to consult with veterans and other individuals having ~~a traumatic~~ brain injury, their families, and their caregivers.

3. The department is exempt from complying with chapter 54-44.4 with respect to contracting for the provision of informal supports under this section.

SECTION 7. AMENDMENT. Section 50-06.4-08 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-08. Social and recreational services.

The department shall provide or contract for the provision of social and recreational services, including day supports, to individuals with ~~traumatic~~ brain injury, if the department determines that available vocational rehabilitative services do not meet the individuals' needs.

SECTION 8. AMENDMENT. Section 50-06.4-09 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-09. Vocational rehabilitation and consultation.

The department shall provide or contract for the provision of increased and specialized vocational rehabilitation and consultation to individuals with ~~traumatic~~ brain injury who receive case management for personal care services. Services under this section include extended support for individuals at risk of losing their employment upon exhausting their vocational services.

SECTION 9. AMENDMENT. Section 50-24.1-33 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-33. ~~Traumatic brain~~Brain injury - Home and community-based services - Outreach activities - Quality control.

1. As part of the personal care services program for eligible medical assistance recipients and as part of the department's services for eligible disabled and elderly individuals, the department shall provide home and community-based services to individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain injury. The department shall give priority under this section to individuals whose impairments are less severe or similar to those of individuals who are eligible for medicaid waivers.

2. The department shall conduct outreach and public awareness activities regarding the availability of home and community-based services to individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain injury.

3. The department shall conduct quality control activities and make training available to case managers and other persons providing services to individuals under this section.

SECTION 10. AMENDMENT. Section 54-38-05 of the North Dakota Century Code is amended and reenacted as follows:

54-38-05. Duties of department.

The department shall:

1. Study alcoholism and drug abuse and related problems, including methods and facilities available for the care, custody, detention, treatment, employment, and rehabilitation of resident alcoholics and drug dependent persons.

2. Promote meetings and programs for the discussion of alcoholism and drug abuse or any of their aspects, disseminate information on the subject of alcoholism and drug abuse for the guidance and assistance of individuals, courts, and public or private agencies for the prevention of alcoholism and drug abuse, and inform and educate the general public on problems of alcoholism and drug abuse, their prevention and treatment, to the end that alcoholism and drug abuse may be prevented and that persons suffering from alcoholism or drug dependency may be disposed to seek available treatment.

3. Conduct, promote, and finance, in full or in part, studies, investigations, and research, independently or in cooperation with universities, colleges, scientific organizations, and public or private agencies.

4. Accept for examination, diagnosis, guidance, and treatment, insofar as funds permit, any resident of the state coming to the department of that person's own volition for advice and guidance. For purposes of this subsection, "any resident" includes veterans and nonveterans who have a ~~traumatic~~ brain injury.

5. Establish, from time to time, policies governing the evaluation, acceptance, care, and treatment of alcoholics and drug dependent persons.

6. Develop, through consultation with the director of the department of transportation, a policy governing programs for persons who, subsequent to being convicted for traffic offenses, are referred to educational courses on alcohol, drugs, and driving.

SECTION 11. AMENDMENT. Subsection 25 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

25. "Permanent total disability" means disability that is the direct result of a compensable injury that prevents an employee from performing any work and results from any one of the following conditions:

    a. Total and permanent loss of sight of both eyes;

    b. Loss of both legs or loss of both feet at or above the ankle;

    c. Loss of both arms or loss of both hands at or above the wrist;

    d. Loss of any two of the members or faculties in subdivision a, b, or c;

    e. Permanent and complete paralysis of both legs or both arms or of one leg and one arm;

    f. Third-degree burns that cover at least forty percent of the body and require grafting;

    g. A medically documented ~~traumatic~~ brain injury affecting cognitive and mental functioning which renders an employee unable to provide self-care and requires supervision or assistance with a majority of the activities of daily living; or

    h. A compensable injury that results in a permanent partial impairment rating of the whole body of at least twenty-five percent pursuant to section 65-05-12.2.

    If the employee has not reached maximum medical improvement within one hundred four weeks, the employee may receive a permanent partial impairment rating if a rating will assist the organization in assessing the employee's capabilities. Entitlement to a rating is solely within the discretion of the organization.

SECTION 12. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying brain injury care, specifically gathering client data from all brain injury service providers under contract with the department of human services, including information on brain injury type, age of consent, age of referral, number of brain injuries, and whether the individual was included or excluded from the service. The legislative management shall report its findings and recommendations with any legislation required to implement the recommendations to the sixty-fifth legislative assembly.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1256.

House Vote:	Yeas 89	Nays 0	Absent 5
Senate Vote:	Yeas 46	Nays 0	Absent 1

Chief Clerk of the House

Received by the Governor at 11:56 A.M. on April 16, 2015.

Approved at 2:33 P.M. on April 16, 2015.

Governor

Filed in this office this 16th day of April, 2015,

at 4:26 o'clock P M.

Secretary of State