

Disability Rights Legal Center



Cancer Legal Resource Center

Cancer Legal Resource Center

919 Albany Street • Los Angeles, CA 90015

Toll Free: 866.THE.CLRC (866.843.2572)

Phone: 213.736.1455

TDD: 213.736.8310 Fax: 213.736.1428

Email: CLRC@LLS.edu

Web: www.CancerLegalResourceCenter.org

The CLRC is a joint program of the Disability Rights Legal Center & Loyola Law School

Health Insurance in North Dakota

Types of Private Health Insurance

Group vs. Individual Insurance

Group insurance is usually offered through your employer or some form of a trade association (ex. a union, etc.). *Individual insurance* means that you are contracting directly with an insurance company (ex. when you purchase a plan from Blue Cross or Blue Shield, etc.). People who purchase group or individual health insurance plans are called “members” of that insurance company.

HMO, PPO, and POS Plans

There are three types of managed care plans. There are HMO, PPO, and POS plans.

HMO stands for a health maintenance organization. There are generally two forms: 1) independent physician associations (IPAs), and 2) stand alone facilities. IPAs have physicians that practice in their own offices and sometimes join with other providers to form a medical group.

PPO stands for Preferred Provider Organization. A PPO is a group of health care providers who have agreed to provide services to an insurance company’s members at a reduced rate.

POS stands for Point of Service Plan. A POS Plan is a cross between an HMO and a PPO. Members of a POS plan decide which type of service they want to use at the point when they are ready to use it.

HMO	PPO	POS
Participating doctors and hospitals. Generally have a primary care physician who coordinates care	Usually many health care provider and hospital choices	Can see providers in- or out-of-network
HMO	PPO	POS
Generally have to select doctors and hospitals from within the participating group	Can select from all participating providers	If selecting within network, generally have a minimal co-pay. If selecting from larger group, member will pay more
Limited choices	More choices in doctors, specialists, overall providers	More choice when needed
Usually less expensive	Usually more expensive	Cost is between that of a PPO and an HMO

What to consider when choosing a health insurance plan

- 1) Look at the summary of *benefits*. What benefits are included? What benefits are excluded?
- 2) Look at *costs*. How much are the monthly premiums, annual deductibles, and co-payments?
- 3) When are the *enrollment periods*? Do they offer annual open enrollment periods to make changes to your policy?
- 4) How much *flexibility* do they offer? Can you change plans if you need to? How?

Health insurance companies are required to renew an individual's existing health coverage, but there is no cap on the rate increases companies may impose at the time of renewal. This is called guaranteed renewability. Guaranteed renewability is not portable, so you do not have the right to switch to another company or even another product offered by the same company.

Ways to Get and Keep Health Insurance

Employment-Based Health Insurance

The most common way that people obtain health insurance coverage is through their own employment or a family member's employment. There are certain rights that are guaranteed to people who are insured through their own or a family member's employment. These rights have to do with the continuation of coverage during certain leaves of absence (under the Family and Medical Leave Act) or upon termination of employment (see COBRA, discussed below). Persons with employment-based health insurance are also protected from health insurance discrimination based on their pre-existing conditions under the Health Insurance Portability & Accountability Act (see HIPAA, discussed below).

COBRA

COBRA is a federal law that allows you to continue the same health insurance coverage that you had through your or your family member's employer. It's the same health insurance policy you had when you were employed, so you don't have to worry about changing providers.

COBRA is available to an employee or family member after an employee has terminated their employment or has reduced their work hours to a point that they are no longer eligible to receive coverage from their employer. This termination or reduction in hours is referred to as a "qualifying event." Other qualifying events for COBRA are divorce or death of a spouse (when the person seeking COBRA coverage was insured by a plan provided through the spouse's employment), or a child aging out of a parent's health insurance policy.

Federal law defines the terms of COBRA coverage and its availability as follows:

- COBRA applies to employers with 20 or more employees.
- COBRA coverage generally lasts for 18 months.¹
- The cost of the monthly premium paid by the employee can be up to 102% of what the employer was paying for the same benefits.
- The person insured is responsible for the full premium for the coverage.
- Who is responsible for notifying the health plan of the qualifying event depends on which qualifying event has occurred.

¹ COBRA coverage can last up to 29 months if the person insured has a qualifying disability, or up to 36 months if the person became eligible for COBRA coverage because of certain qualifying events or a combination of qualifying events.

- A health plan has 14 days after the plan administrator is notified of the qualifying event to notify the employee of the right to elect COBRA.
- An employee must elect COBRA within 60 days after being notified of their COBRA rights. The employee then has 45 days after electing coverage to pay the initial premium.

If you elect COBRA coverage, you will have to pay the premiums for each month since you became eligible. So, even if you wait until the last day of your eligibility to elect COBRA coverage, you will still have to back-pay the premiums to the date your eligibility began.

North Dakota State Continuation Coverage

North Dakota has a state version of COBRA which allows someone who is covered by an employer's group health plan to keep their health insurance when they would otherwise lose it. The qualifying events are similar to that of COBRA.

North Dakota state law defines the terms of their continuation coverage and its availability as follows:

- North Dakota state continuation coverage applies to employers with 2-19 employees.
- North Dakota state continuation coverage generally lasts for 39 weeks.
- You must accept your mini-COBRA options within 10 days of the termination of your group coverage or receipt of notification, whichever comes later.

North Dakota does not have a Health Insurance Premium Program.

Health Insurance Portability & Accountability Act (HIPAA)

Health Insurance Portability & Accountability Act (HIPAA)

HIPAA prohibits health insurance discrimination against individuals based on their pre-existing conditions, when going from a group health insurance plan to another group health insurance plan or from a group plan to a HIPAA guarantee issue plan.

HIPAA also: 1) provides a federal right to an individual health insurance plan (called a guarantee issue plan); 2) reduces the maximum pre-existing condition exclusion period to 12 months; and 3) gives you credit for the time that you had health insurance coverage in the past to eliminate or reduce a pre-existing condition exclusion period.

Guarantee Issue Plan

Normally when you apply for an individual health insurance plan, you are required to go through a process called medical underwriting. During this process, the insurance company looks at your past and current medical condition in order to decide whether or not they want to issue you a health plan. If you currently have, or in the past have had, a serious medical condition, the insurance company will likely decide that it is not worth the risk to them to issue you a health plan, and they will deny you coverage.

A guarantee issue plan, also known as a "federally insured plan" or "HIPAA plan," is an individual health insurance plan that you have a right to purchase under federal law. A HIPAA plan isn't a specific plan – it's just a right to purchase an individual plan.

In North Dakota, HIPAA plans are available through the Comprehensive Health Association of North Dakota (CHAND). CHAND also offers non-HIPAA plans, so be sure to use words "HIPAA plan" when you apply.

A HIPAA plan is different than COBRA coverage. Under COBRA, you keep the same health insurance you had through your employer. Under HIPAA you are buying new insurance, so you need to compare all of the available plans and pick the one that is right for you. Compare the premiums, deductibles, and co-payments. Check to make sure your healthcare providers accept any insurance plan you are considering, and check to make sure that your prescription drugs are on the formulary list of drugs covered by the plan.

You must meet the following requirements to be eligible for a HIPAA plan:

- You must exhaust your COBRA coverage, meaning that you use all 18 months of COBRA coverage, and any additional COBRA coverage available to you.
- You cannot have a break in coverage longer than 63 days.
- You must be ineligible for Medicare, Medicaid, or any other form of group coverage.

Pre-existing Condition Exclusion Period (PECEP)

When you are going from one employer's group health plan to another employer's plan, the new plan is required to insure you, but they can impose a PECEP, which means that for a certain period of time, they will not cover any treatment or services related to a pre-existing medical condition. Before HIPAA, a two-year PECEP was the industry standard. HIPAA limited the maximum PECEP that may be imposed to one year. North Dakota does not change the HIPAA maximum PECEP of one year.

Creditable Coverage

Creditable coverage is any previous period of health insurance coverage that was not interrupted by a break in coverage of more than 63 days. HIPAA reduces any PECEP by the length of time that you previously had creditable coverage. Example: If you previously had coverage for four months, have not had a break in coverage of more than 63 days, and your new insurance plan has a PECEP of 12 months, then you get a credit for your 4 previous months of coverage, leaving you with only 8 months left on your PECEP. So, if you have 12 months or more of previous health insurance coverage, and you never have a break in coverage of more than 63 days, you will never face a PECEP.

Almost all types of health insurance can qualify as creditable coverage. (Medicare, Medicaid, group, individual, COBRA, and HIPAA plans can all qualify.) One exception is student health insurance plans because they are not typically a full policy with catastrophic coverage. If a particular condition was not covered by the policy that you are claiming as creditable coverage, then your new health plan may still subject that condition to a PECEP.

To show that you have creditable coverage, call your insurance company to request a "certificate of creditable coverage," which lists the dates that you have been insured by that company. If you have been insured by multiple companies, you need certificates of creditable coverage from each one.

Comprehensive Health Association of North Dakota Major Risk Insurance Plan

A major risk plan is health insurance coverage for North Dakota residents who are unable to obtain coverage in the individual health insurance market due to a pre-existing condition. Major risk plans are available through the Comprehensive Health Association of North Dakota (CHAND).

CHAND plans are also available to residents of North Dakota who have been offered individual coverage at a premium rate higher than the rate charged by CHAND for substantially similar coverage, or who have certain types of high cost conditions, or who have been denied insurance by at least one insurance company. The premiums for the coverage depend on your age, gender, and which plan you choose.

Handling Health Insurance Disputes

If you disagree with a decision that your health insurance provider has made regarding coverage, you have the right to appeal that decision. The appeals process varies depending on what state you live in.

North Dakota does not require an external or independent grievance system to appeal a health plan's unfavorable decision.

Internal review

This is the health plan's own review of its decision. There are state and federal laws and rules that apply to internal review processes.

External or independent review

This is a reconsideration of the health plan's determination by an outside, independent organization. In North Dakota, reviews are conducted by the North Dakota Insurance Department.

Before you begin an appeal, understand your coverage and applicable laws.

An employer-sponsored health plan is one that a person can get through their own employment or through a family member's employment. The employer usually makes a contribution toward the cost of the employee's coverage. An individually purchased plan is one that you purchase directly from a health plan. The person purchasing the insurance pays the entire premium. Different laws apply depending on whether your plan is employer-sponsored or individually-purchased.

If your plan is an employer-sponsored plan, you need to know whether it is a self-insured plan. A self-insured plan is one in which the employer does not contract with an insurance company to insure their employees. Instead, the employer does their own risk pooling like an insurance company would, and pays directly for their employees' health costs. Since self-insurance does not involve a contract between an insurance company and an employer, it is not subject to state insurance regulations. Federal laws still apply to self-insured plans.

Know what is covered and what is not covered by your plan. Also know what procedures and deadlines are required by your plan.

Next, exhaust your plan's internal complaint process.

If you have a problem with your health plan, you have the right to file a complaint with your health plan. A complaint can also be called a grievance or an appeal. You may be able to file your complaint by phone, mail, or on the internet.

You must exhaust your plan's internal grievance process before you may pursue external review through the North Dakota Department of Insurance.

Then, you may request external review.

If you receive an adverse determination from your health plan, meaning that the plan has decided that the treatment provided or requested is not medically necessary then you can ask your plan to arrange external review of their decision.

Each health plan must establish and implement an independent external review mechanism to review and determine whether medical care rendered under the line of insurance was medically necessary and appropriate to the claim as submitted by the provider. The independent external review must be conducted by the North Dakota health care review, inc. or an approved peer review organization.

If you are not granted external review, you may file a written complaint with the North Dakota Department of Insurance, and the Department will decide whether you will receive an external review. The Department of Insurance will assign an independent review entity will be assigned to your case. The decision of the independent review entity is binding on the plan.

Additional Health Care Rights in North Dakota

Second Medical Opinions

In North Dakota you do not have the right to have your insurance company pay for a second medical opinion from a health care provider.

Clinical Trials

In North Dakota a health plan is not required to provide coverage for routine care costs that are incurred in the course of a clinical trial.

Resources in North Dakota

For Assistance With Insurance Disputes or Questions About State Health Insurance Continuation Coverage

North Dakota Department of Insurance

600 E. Blvd. Ave.

Bismarck, ND 58505-0320

(800) 247-0560 or (701) 328-2440

<http://www.nd.gov/ndins/consumer/health-insurance/>

For Questions About COBRA

U.S. Department of Labor

Employee Benefits Security Administration

(859) 578-4680 or (866) 275-7922

<http://www.dol.gov/ebsa/>

For Questions About HIPAA

North Dakota Department of Insurance

(800) 247-0560 or (701) 328-2440

<http://www.nd.gov/ndins/>

Comprehensive Health Association of North Dakota (CHAND)

(800) 737-0016 or (701) 277-2271

<http://www.chand.org/>

For Questions About Comprehensive Health Association of North Dakota

Comprehensive Health Association of North Dakota (CHAND)

(800) 737-0016 or (701) 277-2271

<http://www.chand.org/>

For Assistance for Children

Healthy Steps (Children's Health Insurance Plan)

(800) 755-2604 or (800) 342-4718

<http://www.nd.gov/dhs/services/medicalserv/child/>

Caring for Children Program

(701) 277-2227 or (800) 342-4718

<http://www.ndcaring.org/>

Covering Kids and Families Program

1-877-KIDS NOW (1-877-543-7669)

<http://www.dakmed.org/covering-kids-family/>

For Questions About Medicaid

North Dakota Department of Human Services

600 East Boulevard Avenue, Dept 325

Bismarck N.D. 58505-0250

(701) 328-2310 or (800) 472-2622

<http://www.nd.gov/dhs/services/medicalserv/m/medicaid/>

For Questions About Medicare

U.S. Department of Health & Human Services

Centers for Medicare & Medicaid Services (CMS)

(800) 633-4227 www.medicare.gov