



NORTH DAKOTA  
PUBLIC EMPLOYEES  
RETIREMENT SYSTEM

# Special Board Meeting Agenda

**Location:** By phone: 701.328.0950 Conference ID: 268 901 83#

**Date:** Thursday, September 25, 2025 **Virtual Only**

**Time:** 4:00 P.M. [Join the meeting now](#)

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## **I. LEGISLATION / ADMINISTRATIVE RULES**

A. Emergency Administrative Rules – Rebecca (Board Action)

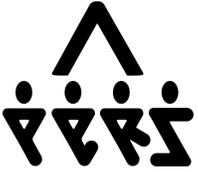
## **II. GROUP INSURANCE / FLEXCOMP**

A. Medicare Part D Plan Contract Amendment – Katheryne (Board Action)

## **III. MEMBER \*EXECUTIVE SESSION**

A. Unforeseeable Financial Hardship Case #953 – Marcy (Board Action)

\*Executive Session pursuant to N.D.C.C. §44-04-19.2, §44-04-19.2(1) and/or §54-52-26 to discuss confidential records or confidential member information.



**North Dakota  
Public Employees Retirement System**  
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Bismarck, North Dakota 58502-1657

**Rebecca Fricke**  
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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Rebecca

**DATE:**               September 25, 2025

**SUBJECT:**           Emergency Administrative Rules

As discussed at the August meeting, required notices of the proposed emergency administrative rules were provided to the Chair and clerk of the Legislative Employee Benefits Programs Committee, the Chair and clerk of the Administrative Rules Committee, participating counties and their employees, Legislative Council and the various newspapers across the State.

The Public Hearing was held on September 10<sup>th</sup> at 11:00 a.m. in the NDPERS Conference Room. There were not any comments received at the hearing. Written or oral comments were to be received by NDPERS by 5:00 p.m. on September 22<sup>nd</sup>. There were not any comments received during the comment period.

The following is the remaining timeline for the emergency rule-making process:

September 25	Special Board meeting for review of comments (if any). Final approval of proposed rules
September 29	Send to Attorney General for review and approval
October 29	After receipt of Attorney General's approval, send to Legislative Council
November 1	Deadline to submit proposed rules to Legislative Council
December 5	Administrative Rules Committee Meeting held

At this time, I am seeking final Board approval of the proposed emergency administrative rules (Attachment 1), contingent upon the Attorney General's approval. You'll notice changes in Attachment 1 that were recommended by legal counsel as the law enforcement plan is now referred to as the public safety plan in the North Dakota Century Code due to legislative changes that became effective August 1, 2025. The plan name has been updated as needed due to this change.

Attachment 2 is the summary of proposed rule changes. Attachments 3 and 4 are the Abbreviated Notice of Intent and the Formal Notice to Adopt. Attachment 5 is a summary of the Fiscal Note, Takings Assessment, and Small Entity Impact Statement and Analysis. A Regulatory Analysis was performed to determine if the proposed rules are expected to have an impact on the regulated community in excess of \$50,000. Staff determined that they would not as shown in Attachment 6.

### **Board Action Requested**

Provide final approval of the proposed emergency administrative rules, as provided as Attachment 1, contingent upon the Attorney General's approval.

## **Title 71 Retirement Board**

### Article

71-01	General Administration
71-02	Public Employees Retirement System
71-03	Uniform Group Insurance Program
71-04	Deferred Compensation Plan for Public Employees
71-05	Highway Patrol Retirement System
71-06	Retiree Health Insurance Credit
71-07	Pretax Benefits Program
71-08	Defined Contribution Plan

### **ARTICLE 71-02 PUBLIC EMPLOYEES RETIREMENT SYSTEM**

#### Chapter

71-02-01	Definitions
71-02-02	Membership
71-02-03	Service Credit
71-02-04	Retirement Benefits
71-02-05	Disability
71-02-06	Contributions
71-02-07	Return to Service
71-02-08	Participation by Governmental Units
71-02-09	Review Procedure
71-02-10	Qualified Domestic Relations Orders
71-02-11	Uniformed Services Employment and Reemployment Rights Act

### **CHAPTER 71-02-02 MEMBERSHIP**

#### **71-02-02-01. Membership - General rule.**

When an eligible employee becomes a member of the public employees retirement system, the following requirements apply:

1. A temporary employee must submit a completed participation agreement within six months of the date of hire as a temporary employee or within six months of a change in status from a permanent to temporary position. If no application is made and filed with the office, an irrevocable waiver of participation will occur for as long as the employee is in temporary status.
2. Delinquent payments of over thirty days, for reasons other than leave of absence or seasonal employment, will result in termination of eligibility to participate as a temporary member.

3. Upon taking a refund, future participation as a temporary member is waived.
4. A member may not contribute concurrently to the plan within any given month as both a permanent and a temporary member. Permanent employment has precedence.
- ~~5. Elected officials of participating counties and elected state officials, at their individual option, must enroll or waive participation in writing within six months of taking office or beginning a new term. If no application is made and filed with the office, an irrevocable waiver of participation will occur until the official makes application within six months from the start of a new term.~~

**History:** Amended effective September 1, 1982; November 1, 1990; September 1, 1992; June 1, 1996; July 1, 1998; May 1, 2004; July 1, 2006; April 1, 2016; July 1, 2018; April 1, 2022; \_\_\_\_\_, 2025.

**General Authority:** NDCC 54-52-04, 54-52-23

**Law Implemented:** NDCC 54-52-01, 54-52-02.9, 54-52-05, 54-52-23

### **71-02-02-02. Nonstate Elected Officials – Membership and Return to Service**

1. **Purpose.** North Dakota Century Code sections 54-52-02.11 and 54-52.6-02.1(3) conflict with Internal Revenue Code sections 401(a)(36) and 401(k)(4)(B)(ii) and related regulations and relevant guidance.

Pursuant to the authority granted to the board under North Dakota Century Code section 54-52-23, the purpose of this section is to ensure compliance with federal statutes and rules until the conflict between North Dakota Century Code section 54-52-02.11 and federal law is addressed by the legislative assembly.

#### **2. Membership.**

- a. As used in this subsection, “eligible elected official” means a county elected official who is a permanent employee, peace officer, firefighter, dispatcher, emergency medical services personnel, or correctional officer and who is eighteen years or more of age.
- b. Effective May 13, 2025, an eligible elected official of a participating county, from and after the date that individual takes office, must participate in the defined contribution retirement plan established under North Dakota Century Code chapter 54-52.6, unless at the time of taking office the individual is:
  - 1) eligible to participate in the public safety plan, in which case the eligible elected official must participate in the public safety plan under North Dakota Century Code chapter 54-52; or
  - 2) a participating or deferred member under North Dakota Century

Code chapter 54-52, in which case the eligible elected official must participate in the defined benefit plan under North Dakota Century Code chapter 54-52.

- c. Effective May 13, 2025, a county elected official who is not an eligible elected official shall have the same participation options as a temporary employee.

### **3. Return to Service.**

- a. As used in this subsection, “impacted member” means a participating member who has reached their normal retirement date, returned to service or continued employment as an elected official of the same participating county with which the member was employed at the time the member retired, and is not contributing to the public safety plan, the defined benefit plan, or the defined contribution retirement plan.
- b. Before August 1, 2027, a request by an impacted member to receive in-service benefit distributions while the impacted member is an elected official of the county of prior employment shall be approved.
- c. Retroactive Effective Date. This subsection is retroactive to July 1, 2007.

- 4. **Sunset provision.** This section shall terminate on the effective date of any measure enacted by the legislative assembly providing the necessary amendments to the North Dakota Century Code to ensure compliance with the federal statutes or rules.

**History:** Effective XXX, 2025.

**General Authority:** NDCC 54-52-04, 54-52-23

**Law Implemented:** NDCC 54-52-02.15, 54-52-05

## **CHAPTER 71-02-07 RETURN TO SERVICE**

### **71-02-07-02. Return to service - Retired member.**

The benefits of a retired member who returns to permanent employment shall be suspended without interest accruing on the suspended account, except as provided in subsection 1 of North Dakota Century Code section 54-52-05 and section 71-02-02-02. Upon subsequent termination and retirement, the member is required to select the same benefit option as the option selected at initial retirement. The member's total benefit upon subsequent retirement must equal the original benefit plus the calculated benefit for the return to work period. The member's benefit attributable to any return to work period shall be based upon service and earnings attributable to the return to

work period only and be calculated as follows:

1. The member's calculated benefit shall be based on the benefit provisions in effect at subsequent retirement and shall include the member's and spouse's ages, salary earned during the period of reemployment, total service credits earned after reemployment, and actuarial factors in effect at subsequent retirement.
2. If a member dies during subsequent employment, the member's initial retirement benefit option election will apply and the date of death will be considered the subsequent retirement date.
3. If a member's spouse dies during the subsequent employment of the member, section 71-02-04-04 applies to the member's initial and subsequent retirement benefit calculation.

**History:** Amended effective November 1, 1990; July 1, 1998; May 1, 2004; July 1, 2006; July 1, 2010; July 1, 2018; \_\_\_\_\_, 2025.

**General Authority:** NDCC 54-52-04, 54-52-17, 54-52-23

**Law Implemented:** NDCC 54-52-17, 54-52-02.15, 54-52-05

## **ARTICLE 71-08 DEFINED CONTRIBUTION RETIREMENT PLAN**

Chapter	
71-08-01	Election and Transfer
71-08-02	Membership in Defined Contribution Retirement Plan
71-08-03	Disability
71-08-04	Qualified Domestic Relations Order
71-08-05	Review Procedure
71-08-06	Uniformed Services Employment and Reemployment Rights Act
71-08-07	Additional Contributions
71-08-08	Temporary Employee Participation
71-08-09	Return to Service – Retired Member
71-08-10	Permanent Employee Participation
71-08-11	Contributions

### **CHAPTER 71-08-02 MEMBERSHIP IN DEFINED CONTRIBUTION RETIREMENT PLAN**

#### **71-08-02-03. Nonstate Elected Officials – Membership and Return to Service**

1. **Purpose.** North Dakota Century Code sections 54-52-02.11 and 54-52.6-02.1(3) conflict with Internal Revenue Code sections 401(a)(36) and 401(k)(4)(B)(ii) and related regulations and relevant guidance.

Pursuant to the authority granted to the board under North Dakota Century

Code sections 54-52-23 and 54-52.6-23, the purpose of this section is to ensure compliance with federal statutes and rules until the conflict between North Dakota Century Code sections 54-52-02.11 and 54-52.6-02.1(3) and federal law is addressed by the legislative assembly.

**2. Membership.** A county elected official shall participate in the defined contribution retirement plan as provided under section 71-02-02-02.

**3. Return to Service.**

**a. Before August 1, 2027, a request by a county elected official to receive in-service benefit distributions shall be approved as provided under section 71-02-02-02.**

**b. Retroactive Effective Date.** This subsection is retroactive to July 1, 2007.

**4. Sunset provision.** This section shall terminate on the effective date of any measure enacted by the legislative assembly providing the necessary amendments to the North Dakota Century Code to ensure compliance with the federal statutes or rules.

**History:** Effective XXX, 2025.

**General Authority:** NDCC 54-52-04, 54-52.6-23

**Law Implemented:** NDCC 54-52-02.15, 54-52.6-02

## **CHAPTER 71-08-09 RETURN TO SERVICE – RETIRED MEMBER**

### **71-08-09-01. Return to service - Retired member.**

The benefits of a retired member of the defined contribution plan who returns to permanent employment shall be suspended except as provided in North Dakota Century Code section 54-52.6-02 and section 71-08-02-03.

**History:** Amended Effective July 1, 2006, XXX, 2025.

**General Authority:** NDCC 54-52-04, 54-52.6, 54-52.6-23

**Law Implemented:** NDCC 54-52.6-01-~~(7)~~, 54-52.6-02-~~(7)~~, 54-52-02.15, 54-52.6-02

## **CHAPTER 71-08-10 PERMANENT EMPLOYEE PARTICIPATION**

### **71-08-10-01. Permanent employee participation.**

1. Under this chapter "eligible employee" means a permanent employee who:

a. Meets all the eligibility requirements set by North Dakota Century Code chapter 54-52;

- b. Is at least eighteen years of age;
  - c. Becomes a participating member after December 31, 2024; and
  - d. Is not eligible to participate in the ~~law enforcement~~ public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under subsection 6 of North Dakota Century Code chapter 15-10-17 for employees of the board of higher education or state institutions under the jurisdiction of the board of higher education.
2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who first becomes a participating or deferred member under North Dakota Century Code chapter 54-52 before January 1, 2025, remains in the defined benefit retirement plan under North Dakota Century Code chapter 54-52, regardless of being rehired after December 31, 2024.
3. Except as otherwise provided under this section and section 71-08-02-03, effective January 1, 2025, an eligible employee who begins employment with an employer as defined under subsection 6 of North Dakota Century Code chapter 54-52-01 shall participate in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 as provided under North Dakota Century Code chapter 54-52.6-02.1.
4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated plans: ~~law enforcement~~ public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under subsection 6 of North Dakota Century Code chapter 15-10-17 for employees of the board of higher education or state institutions under the jurisdiction of the board of higher education.
  - a. A participating or deferred member in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 who becomes eligible to participate in a plan enumerated under subsection 4 shall cease participation in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 and commence participation in the retirement plan enumerated under subsection 4.
  - b. Unless subsection 2 applies, a participating member of a retirement plan enumerated under subsection 4 who ceases participation in that plan and becomes an eligible employee under the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 shall participate in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6.
5. An eligible employee must be enrolled in the plan within the first thirty days of

employment.

**History:** Amended ~~Effective~~ January 1, 2025, XXX, 2025.

**General Authority:** NDCC 54-52-04, 54-52-02.15

**Law Implemented:** NDCC 54-52-02.15, 54-52.6-09, 54-52-02.15, 54-52.6-02

## Attachment 2

### SUMMARY OF PROPOSED EMERGENCY ADMINISTRATIVE RULE CHANGES:

<b>Section</b>	<b>Description</b>	<b>Reason</b>
71-02-02-01	Removes language that conflicts with federal regulations.	Resolve conflict between federal and state law.
71-02-02-02	New section to clarify eligibility of elected county officials to participate in the defined benefit retirement plan (if eligible) and defines return to service of elected county officials.	Resolve conflict between federal and state law.
71-02-07-02	Clarifies return to service elected county official not required to have benefit suspended.	Resolve conflict between federal and state law.
71-08-02-03	New section to clarify eligibility of elected county officials to participate in the defined contribution retirement plan (if eligible) and defines return to service of elected county officials.	Resolve conflict between federal and state law.
71-08-09-01	Clarifies return to service elected county official not required to have benefit suspended.	Resolve conflict between federal and state law.
71-08-10-01	Clarifies eligibility criteria for county elected officials to participate in defined contribution plan as permanent employee	Resolve conflict between federal and state law.

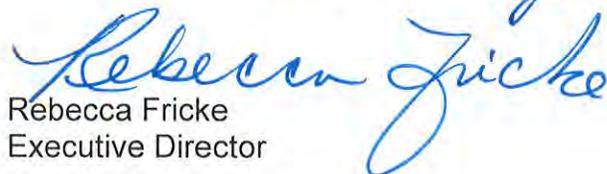
ABBREVIATED NOTICE OF INTENT TO ADOPT AND AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. ARTICLES 71-02 & 71-08  
REGARDING ELECTED COUNTY OFFICIALS  
PARTICIPATION IN NDPERS RETIREMENT PLANS

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed changes to the N.D. Admin. Code at 11:00 A.M. on Wednesday, September 10, 2025, at 1600 East Century Avenue Suite 2, Bismarck, North Dakota. The rules relate to the participation of elected county officials in North Dakota Public Employees Retirement System (NDPERS) retirement plans.

These rules are emergency rules with an effective date of July 31, 2025.

A copy of the proposed rules may be requested by writing to PO Box 1657, Bismarck, ND 58502, e-mailing NDPERS-info@nd.gov, or calling 701-328-3900. Written comments on the proposed rules can be mailed to PO Box 1657, Bismarck, ND 58502 or emailed to NDPERS-info@nd.gov. Oral comments can be submitted by calling 701-328-3900. Comments received by no later than 5:00 p.m. on September 22, 2025, will be fully considered. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Public Employees Retirement System at the above telephone number or address at least seven days prior to the public hearing.

Dated this 31<sup>st</sup> day of July, 2025

  
Rebecca Fricke  
Executive Director

FULL NOTICE OF INTENT TO ADOPT AND AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. ARTICLES 71-02 & 71-08  
REGARDING ELECTED COUNTY OFFICIALS  
PARTICIPATION IN NDPERS RETIREMENT PLANS

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed adoption of and amendments to administrative rules in N.D. Admin. Code sections 71-02-02-01, 71-02-02-02, 71-02-07-02, 71-08-02-03, 71-08-09-01, and 71-08-10-01 at 11:00 A.M. on Wednesday, September 10, 2025, at 1600 East Century Avenue Suite 2, Bismarck, North Dakota. The purpose of the proposed rules and amendments is to meet a mandate of federal law due to a conflict between North Dakota law and the Internal Revenue Code related to the participation of elected county officials in NDPERS retirement plans. The proposed rules and amendments address:

**Section 71-02-02-01. Membership - General rule** is amended to remove subsection 5 giving elected county and state officials the option to enroll or waive participation in the public employees retirement system.

**Section 71-02-02-02. Nonstate Elected Officials – Membership and Return to Service** is created to establish rules governing membership of county elected officials in the public employees retirement system and to permit county elected officials to receive in-service benefit distributions in certain narrow circumstances.

**Section 71-02-07-02. Return to service - Retired member** is amended to add a cross-reference to the new provision at section 71-02-02-02 on county elected official return to service.

**Section 71-08-02-03. Nonstate Elected Officials – Membership and Return to Service** is created to establish rules governing membership of county elected officials in the defined contribution retirement plan and to permit county elected officials to receive in-service benefit distributions in certain narrow circumstances.

**Section 71-08-09-01. Return to service - Retired member** is amended to add a cross-reference the new provision at section 71-08-02-03 on county elected official return to service.

**Section 71-08-10-01. Permanent employee participation** is amended to add a cross-reference to the new provision section 71-08-02-03 on county elected official participation in the defined contribution retirement plan.

The proposed rules and amendments are not expected to have an impact on the regulated community in excess of \$50,000.

These rules are emergency rules with an effective date of July 31, 2025.

The proposed rules may be reviewed on the website of the North Dakota Public Employees Retirement System ([www.ndpers.nd.gov](http://www.ndpers.nd.gov)) or at the office of the North Dakota Public Employees Retirement System, 1600 East Century Avenue Suite 2, Bismarck, North Dakota. A copy of the proposed rules may be requested by writing to PO Box 1657, Bismarck, ND 58502, e-mailing [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov), or calling 701-328-3900. Written comments on the proposed rules can be mailed to PO Box 1657, Bismarck, ND 58502 or emailed to [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov). Oral comments can be submitted by calling 701-328-3900. Comments received by no later than 5:00 p.m. on September 22, 2025, will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Public Employees Retirement System at the above telephone number or address at least seven days prior to the public hearing.

Dated this 31<sup>st</sup> day of July, 2025

  
Rebecca Fricke  
Executive Director

# Attachment 5

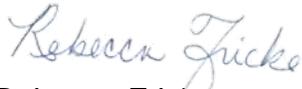
**Fiscal Note / Takings Assessment /  
Small Entity Economic Impact Statement / Small Entity Regulatory Analysis  
For Administrative Rules Relating to N.D.A.C. Articles 71-02 & 71-08  
Regarding Elected County Officials Participation in NDPERS Retirement Plans**

A fiscal note was not required because these rules have no fiscal effect.

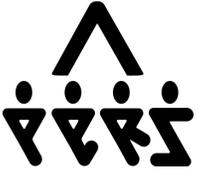
No takings assessment was required because these rules do not limit the use of private real property.

No small entity regulatory analysis was required because the proposed rules are mandated by federal law and none of the proposed rules will have an adverse impact on small entities.

No small entity economic impact statement was required because the proposed rules are mandated by federal law.

A handwritten signature in blue ink that reads "Rebecca Fricke". The signature is written in a cursive style.

Rebecca Fricke  
Executive Director



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# Memorandum

**FROM:** Rebecca Fricke, Executive Director

**RE:** Regulatory Analysis of Proposed Changes to North Dakota Administrative Code Chapters 71-02-02, 71-02-07, 71-08-02, 71-08-09 and 71-08-10

**DATE:** July 31, 2025

This analysis pertains to proposed new rules and amendments to North Dakota Administrative Code Chapters 71-02-02, 71-02-07, 71-08-02, 71-08-09 and 71-08-10. The proposed rules remedy a conflict between federal law and North Dakota law related to the participation of county elected officials in the NDPERS retirement plans.

## Purpose

The purpose of this analysis is to fulfill the requirements of N.D.C.C. § 28-32-08(1)(b) by evaluating whether the proposed rules will have an impact on the regulated community in excess of \$50,000. The new rules are not expected to have a fiscal impact on the regulated community in excess of \$50,000.

## Classes of Persons Who Will be Affected

The classes of persons who probably will be affected by these rules are:

- County employers participating in NDPERS retirement benefits
- County members participating in NDPERS retirement benefits

## Probable Impact

The purpose of the proposed rules is to resolve a conflict between North Dakota Century Code sections 54-52-02.11 and 54-52.6-02(1) and the Internal Revenue Code. The proposed rules will ensure compliance with federal law until the conflict between North Dakota law and federal law is addressed by the legislative assembly.

The proposed rules resolve a conflict that could fiscally impact the regulated community as follows if they are not resolved:

- If the conflict is not remedied, the IRS may deem the NDPERS retirement plan to lose its qualification status, causing significant member and employer disruption
- If the conflict is not remedied, retired county elected officials who have returned to service can no longer receive their retirement benefits and may be required to return overpayments of benefits
- If the conflict is not remedied, county employers may be required to submit retroactive contributions for any retired county elected official who has returned to service

#### Probable Cost of Implementation

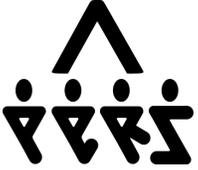
The cost to NDPERS and participating employers to implement the proposed rules is minimal given the proposed rules implement participation and return to service criteria that is consistent with how the plan has been administered, while ensuring that conflicts with federal law are resolved. The two main conflicts being resolved are:

- 1) To establish participation criteria for future county elected officials that mirrors participation criteria for all other classes of employees.
- 2) To establish return to service criteria to ensure that those county elected officials who retired and subsequently returned to service can continue to receive their retirement benefits in the manner they had previously.

There is no additional programming necessary to accommodate these modifications in the NDPERS business system. The main expense is staff time to modify various member and employer materials, as well as, communicate the updates to the participating county employer and member groups.

#### Consideration of Alternative Methods

Given the need for these emergency rules was to ensure a conflict between federal and state law was resolved as timely as possible, it was determined that alternative methods were not available.



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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Katheryne Korom

**DATE:**               September 25, 2025

**SUBJECT:**           Medicare Part D Plan Contract Amendment

At the August meeting, the Board approved renewing the NDPERS Medicare Part D Plan with Humana for the 2026 plan year. Attached is the contract amendment prepared by NDPERS legal counsel and signed by Humana.

**Board Action Requested:**

Approval of the contract amendment and signature by Chairman Seminary for the Medicare Part D Plan for the 2026 plan year.

## **Fourth Amendment to Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services Agreement**

This Fourth Amendment is made to the Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services Agreement (Agreement) between the State of North Dakota, acting through its North Dakota Public Employees Retirement System (Group), and Humana Insurance Company and its affiliates that offer or administer health plans (collectively MAO) (collectively, the Parties), effective January 1, 2026.

The Parties agree to the following terms and conditions and expressly agree that if any of the following terms and conditions conflict with any of the terms and conditions of the Agreement, then, notwithstanding any term in the Agreement, the following terms and conditions govern and control the rights and obligations of the Parties. The Parties further agree that this amendment supersedes all previous amendments to the Agreement.

The Parties agree to amend the Agreement as follows:

### **1. ARTICLE IV – TERM AND TERMINATION**

**Agreement Section 4.1, Contract Term**, is hereby amended as follows:

The Agreement commenced on January 1, 2022, for a period of one year with an option to renew the Agreement for successive January 1 to December 31 periods.

The Agreement was previously renewed for three one-year periods from January 1, 2023, to December 31, 2023; January 1, 2024, to December 31, 2024; and January 1, 2025, to December 31, 2025.

The parties have agreed to renew the Agreement for an additional one-year term; therefore, the Agreement is amended to change the expiration date to December 31, 2026.

### **2. ARTICLE VI - MISCELLANEOUS PROVISIONS**

**Section 6.1 Insurance**, is hereby amended as follows:

MAO shall secure and keep in force during the term of this Agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverage:

- a) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- b) [Removed].
- c) Workers' compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Agreement.
- d) Employer's liability or "stop gap" insurance of not less than \$2,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

- e) Professional errors and omissions with minimum limits of \$1,000,000 per occurrence and in the aggregate, MAO shall continuously maintain such coverage during the Agreement period and for three years thereafter. In the event of a change or cancellation of coverage, MAO shall purchase an extended reporting period to meet the time periods required in this section.

The insurance coverages listed above must meet the following additional requirements:

- a) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of MAO.
  - b) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by Group. The policies shall be in form and terms approved by Group.
  - c) The duty to defend, indemnify, and hold harmless Group under this Agreement shall not be limited by the insurance required in this Agreement.
  - d) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights, and coverages of an additional insured under this policy that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the MAO. Additional insured will be offered on the general liability (MCII policy including Professional Liability and Errors and Omissions) only.
- a) A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against Group.
  - b) MAO shall furnish a certificate of insurance to the undersigned Group representative prior to commencement of this Agreement. All endorsements shall be provided as soon as practicable.
  - c) Failure to provide insurance as required in this Agreement is a material breach of contract entitling Group to terminate this Agreement immediately.
  - d) MAO shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. MAO shall provide on an ongoing basis, current certificates of insurance during the term of the Agreement. A renewal certificate will be provided 10 days prior to coverage expiration. An updated, current certificate of insurance shall be provided in the event of any change to a policy.
3. Attachment A to the Agreement, *MAO Plan Information*, is deleted in its entirety and replaced by Attachment A Humana Group Plan – Premium Information, as attached hereto.
  4. Attachment B to the Agreement remains in effect and is not modified by this Amendment or any previous amendment.

5. Attachment C to the Agreement remains in effect and is not modified by this Amendment or any previous amendment.
6. Attachment D Humana's Group Medicare Performance Guarantee Agreement is added to the Agreement, as attached hereto.
7. Attachment E Humana Medicare Employer PDP Plan Design Exhibit, is added to the Agreement, as attached hereto.
8. This Amendment is effective January 1, 2026.
9. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Amendment to be executed by their duly authorized officers or representatives as of the date set forth above.

HUMANA

Signature: Jill Tobin

Printed: Jill Tobin

Title: SVP - Group Medicare

Date: 9/22/2025

State of North Dakota through NDPERS

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Attachment A



## Humana Medicare Group Plan – Premium Information

### NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM - PDP

**Date:** 8/12/2025  
Humana Medicare Group Plan  
**Plan Names:** Custom PDP  
**Rx Formulary:** Group Plus Formulary - 26800  
**Additional Medication Buy-Ups:** Coughs and Colds, EDs Enhanced

Plan Year	Final Billed Premium (Per Member Per Month)
1/1/2026 - 12/31/2026	\$69.82

#### PDP 037 161 Rx Benefit Overview

Prescription Drugs (Retail 30 day supply)

Custom PDP \$5 copay plus 15% coinsurance / \$15 copay plus  
25% coinsurance / \$25 copay plus 50% coinsurance / \$25 copay  
plus 50% coinsurance from \$0 to Catastrophic

\*\*\* The benefits presented above are a high-level summary. Please consult the Plan Design Exhibit for a more detailed list of covered services, member cost shares, services subject to deductibles and any plan limitations.\*\*\*

North Dakota Public Employees Retirement Systems

Attachment D



2026 Group Medicare Performance Standards for PDP Only

Effective January 1, 2026 through December 31, 2026

Minimum Annual Average Membership Requirement: None

PG#	Category	Target	Standard & Measurement Criteria	Amount at Risk
1	Plan Performance Review	Measurement methodology shall be measured from date of delivery of the plan performance review in calendar days	Within ten (10) calendar days following delivery of performance reviews to NDPERS, vendor shall develop and submit a corrective action plan (CAP) of issues identified for approval by NDPERS, and implement such plan within the time prescribed in the approved CAP.	Semi- annually \$1,000 per calendar day beyond the due date
2.1	Customer Satisfaction Surveys	Vendor will provide annual survey results to confirm compliance with performance standard	Member satisfaction surveys will be designed by the vendor and approved by NDPERS. Vendor will invite a random sample of members to participate in the survey to collect a statistically significant number of completed surveys.  Member satisfaction rate will meet 90% or higher using a 1-5 scale of Completely Satisfied, Very Satisfied, Satisfied, Dissatisfied, Very Dissatisfied.  Final survey questions and methodology will be agreed upon by vendor and NDPERS.	Annually \$25,000 per year
2.2	Customer Satisfaction Surveys - Illustrative Only	Illustrative Group Specific Results Only - see 2.1	Illustrative Group Specific Results Only - see 2.1	Illustrative Group Specific Results Only - see 2.1
3	Team Meetings	Compliance to be monitored and assessed by NDPERS	NDPERS requires monthly team meetings to address all planning / implementation, business, financial, clinical / formulary (including new drug review) and operational needs	Monthly \$5,000 for each meeting missed
4	NDPERS board meetings	Compliance to be monitored and assessed by NDPERS	Vendor will participate in quarterly performance reviews to examine operational and financial performance	Quarterly \$5,000 for each quarter missed
5	Electronic Eligibility	Vendor will provide quarterly reports to confirm compliance with performance standard	Eligibility files will be installed in an electronic medium, logged within eight (8) hours and status will be effective within vendor's system within eighteen (18) hours from date of receipt, seven (7) days per week.	Quarterly \$500 for each missed file deadline
6	Manual Eligibility	Vendor will provide quarterly reports to confirm compliance with performance standard	Manual eligibility will be loaded within eight (8) hours upon receipt or notification and must be applied and active in the vendor's system within one (1) business day.	Quarterly \$500 for each missed file deadline
7	Error Reports	Vendor will provide quarterly reports to confirm compliance with performance standard	An error report on all eligibility file updates will be produced within eighteen (18) hours from the update.	Quarterly \$500 for each missed file deadline
8	Data Files	Will be available to NDPERS on request	Monthly data files (membership, medical, pharmacy) will be available by the 15th of the following month.	Monthly \$1,000 for each month not met
9	Claims Financial Accuracy	Claims Financial Accuracy will be 99% or greater, each year of the biennium. Measured as the absolute value of financial errors divided by the total paid value of audited dollars paid based on quarterly internal audit of statistically valid sample.	Vendor will provide annual reports to confirm compliance with performance standard	Annually \$12,500 per year
10	Claims Payment Accuracy	Vendor will provide annual reports to confirm compliance with performance standard	Claims Payment incidence Accuracy will be 98% or greater, each year of the biennium. Measured as the percent of Claims processed without financial payment error.	Annually \$12,500 per year
11	Claims Processing Accuracy	Claims Procedural Accuracy will be 95% or greater, each year of the biennium. Measured as the percent of Claims processed without non-financial error.	Vendor will provide annual reports to confirm compliance with performance standard	Annually \$12,500 per year
12	Claim Timeliness	Clean claims processing within 14 calendar days will be 95% or greater, each year of the biennium. Measured from the date the claim is received to the date claim is processed	Vendor will provide annual reports to confirm compliance with performance standard	Annually \$12,500 per year
13	Average Speed to Answer (ASA)	Vendor will provide semi-annual reports to confirm compliance with performance standard	Average Speed of Answer will be 30 seconds or less, each year of the biennium. Vendor will have an established measurement process that shall be reviewed with NDPERS	Semi-annually \$10,000 per year
14	Call Abandonment	Vendor will provide annual reports to confirm compliance with performance standard	Call Abandonment rate will be 5% or less, each year of the biennium	Annually \$10,000 per year
15 a	Accuracy and Timelines/	Vendor must evaluate a statistically valid sample of inquiries with reports provided.	a.) 95% percent of callers receive accurate information. Calls requiring additional research is excluded from the computation of this metric.	15a, 15b, and 15c Annually \$12,500 per year

North Dakota Public Employees Retirement Systems

Attachment D



2026 Group Medicare Performance Standards for PDP Only

Effective January 1, 2026 through December 31, 2026

Minimum Annual Average Membership Requirement: None

PG#	Category	Target	Standard & Measurement Criteria	Amount at Risk
15 b	First Call Resolution	Vendor must evaluate a statistically valid sample of inquiries with reports provided.	b.) 95% percent of inquiries must be resolved during the initial call (excluding appeals, billing, errors and escalations).	15a, 15b, and 15c Annually \$12,500 per year
15 c	Written Inquiry Response Time	Vendor must evaluate a statistically valid sample of inquiries with reports provided.	c.) ≥ 90% response to written inquiries within 30 calendar days	15a, 15b, and 15c Annually \$12,500 per year
16	Prescription drug turnaround time – clean prescriptions	Vendor will provide quarterly reports to confirm compliance with performance standard	98% within two (2) business days if no intervention required	Quarterly \$1,000 for each point below standard-
17	Prescription drug mail dispensing accuracy	Vendor will provide annual reports to confirm compliance with performance standard	99.9% Mail service dispensing accuracy rate. Fields measured include member name, drug strength, directions, quantity and prescriber name.	Annually \$12,500 per year
18	Prescription drug home delivery member notifications	Vendor will provide annual reports to confirm compliance with performance standard	Vendor is required to notify a member when a mail service prescription is changed or there is any expected shipping delay and provide reporting details to NDPERS capturing all occurrences by member/DOS/Issue	Annually \$12,500 per year
19	Prescription drug specialty pharmacy delivery	Vendor will provide annual reports to confirm compliance with performance standard	98% of prescriptions will be delivered and received by patients on the specified date of delivery	Annually \$12,500 per year
20	Network Pharmacy Access	Vendor will provide annual reports to confirm compliance with performance standard	Pharmacy network composition will not be reduced by more than 5% in North Dakota compared to the network submitted in the RFP	Annually \$12,500 per year
21	Data Systems Availability and Adjudication	Book of business level	Guarantees an annual average 99% system availability of the point-of-sale adjudication system on a book of business basis. This standard excludes downtime attributed to regularly scheduled systems maintenance or systems downtime	Annually \$12,500 per year

Humana agrees to meet the performance standards as outlined above in providing administrative services for North Dakota Public Employees Retirement Systems. This agreement is contingent upon Humana being the only Part D Prescription Drug option for Medicare eligible retirees. The agreement will be for the contract period beginning January 1, 2026. This Performance Guarantee offering is based on a PDP Only plan offering. Performance results will be reported quarterly based upon center results for the member and claims services categories, not client specific results (except where otherwise stated) within 60 days after the end of the reporting period. Results will be assessed based on the annual results with payment of any penalties due following the end of the plan year. Please note that the performance standards are influenced by key market indicators (including changes in rules and standards from CMS) which could impact our performance standard metrics.

During implementation if significant changes to the Client's Plan, or in the event a benefit change notification is not received from the Client on a timely basis, Humana will not be responsible for performance results or penalty amounts as described within this Agreement.

ACCEPTED AND AGREED:

By: \_\_\_\_\_ Date: \_\_\_\_\_

In order for this contract to be binding, signatures are required from the client. This signed exhibit must be returned to the Humana Account Executive prior to implementation and no later than 30 days post effective date.

# Attachment E



## HUMANA MEDICARE EMPLOYER PDP PLAN

2026 PDP for North Dakota Public Employees Retirement System (NDPERS) Plan 037 Option 161  
 Group Plus Formulary - PDG 50  
 With Package(s): 2 (Cough/Cold), 7 (Erectile Dysfunction)  
 Effective Date: 01/01/2026 - 12/31/2026

### 30 day Supplies

PDP Option Number	30 day Standard Retail from \$0 to Catastrophic (1)				30 day Standard Retail from Catastrophic to Unlimited	Part D MOOP (2)
	Tier 1*	Tier 2	Tier 3	Tier 4		
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$0	\$2,100

PDP Option Number	30 day Standard Mail Order from \$0 to Catastrophic (1)				30 day Standard Mail Order from Catastrophic to Unlimited	Part D MOOP (2)
	Tier 1*	Tier 2	Tier 3	Tier 4		
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$0	\$2,100

Note: Part D vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for adults may be available at no cost.  
 Note: Plan covered insulin products will not exceed \$35 for a one-month supply no matter what cost-sharing tier it's on.

\*Tier 1: Generic or Preferred Generic - Generic or brand drugs that are available at the lowest cost share for this plan.  
 Tier 2: Preferred Brand - Generic or brand drugs that Humana offers at a lower cost than Tier 3 Non-Preferred Drug.  
 Tier 3: Non-Preferred Drug - Generic or brand drugs that Humana offers at a higher cost than Tier 2 Preferred Brand drugs.  
 Tier 4: Specialty Tier - Some injectables and other higher-cost drugs.

# Attachment E



## 90 day Supplies

PDP Option Number	90 day Standard Retail (3) from \$0 to Catastrophic (1)				90 day Standard Retail (3) from Catastrophic to Unlimited	Part D MOOP (2)
	Tier 1*	Tier 2	Tier 3	Tier 4		
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	NA	\$0	\$2,100

PDP Option Number	90 day Standard Mail Order (3) from \$0 to Catastrophic (1)				90 day Standard Mail Order (3) from Catastrophic to Unlimited	Part D MOOP (2)
	Tier 1*	Tier 2	Tier 3	Tier 4		
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	NA	\$0	\$2,100

Note: Part D vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for adults may be available at no cost.

### Footnotes

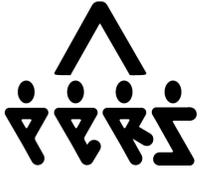
- 1 Catastrophic: When a member's Part D Maximum Out-of-Pocket (MOOP) cost reaches \$2,100 (enhanced drug coverage claims are excluded from accrual towards the Part D MOOP), Humana then pays 100% of covered Part D Rx claims, including enhanced drug coverage.  
 2 Part D MOOP: When a member's Part D Maximum Out-of-Pocket (MOOP) cost reaches \$2,100 (enhanced drug coverage claims are excluded from accrual towards the Part D MOOP), Humana then pays 100% of covered Part D Rx claims, including enhanced drug coverage.  
 3 Retail and Mail Order: The benefit for a 90-day supply is limited to Rx formulary Tiers 1-2 and most drugs on Tier 3. Regardless of tier placement, Specialty drugs are limited to a 30-day supply.

### Out of Network: Emergency Situations

- When a member purchases a drug at an out-of-network pharmacy in an emergency situation:  
 a. the member will pay the same coinsurance as would have applied at a network pharmacy, but at the out-of-network pharmacy price, and/or,  
 b. the member will pay the same copayment as would have applied at a network pharmacy, plus the difference between the out-of-network pharmacy price and the network pharmacy price.

This information is not a complete description of benefits. Contact the plan for more information. Limitations, copayments and restrictions may apply. Benefits, premiums and/or member cost-share may change each year. Part D benefit parameters, regulated by the Centers for Medicare and Medicaid Services (CMS), can impact Part D benefits on an annual basis. The formulary and pharmacy network may change at any time. The member will receive notice when necessary. Please refer to the Evidence of Coverage for additional information regarding covered services and limitations or any other contractual conditions. For a complete description of benefits, exclusions and limitations please refer to the actual Evidence of Coverage. If a discrepancy arises between this information and the actual Evidence of Coverage, the Evidence of Coverage will prevail in all instances.

Humana is a Medicare Employer Prescription Drug plan with a Medicare contract. Enrollment in this Humana plan depends on contract renewal.



**North Dakota**  
**Public Employees Retirement System**  
1600 East Century Avenue, Suite 2 • PO Box 1657  
Bismarck, North Dakota 58502-1657

**Rebecca Fricke**  
Executive Director  
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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Marcy Aldinger

**DATE:**               September 25, 2025

**SUBJECT:**           Unforeseeable Financial Hardship Case #953

This Unforeseeable Financial Hardship Case was brought before the Board on September 9, 2025. The Board requested the participant provide a judgment and explanation of benefits (EOB). These items are included as Attachment #3. The judgement total is \$3,225.30, which includes interest and fees. The total of the EOBs is \$2,470.69. The difference between the judgment and the originally incurred medical expenses is \$754.61.

The participant originally requested a withdrawal from the State of North Dakota 457 Deferred Compensation Plan in the amount of **\$3,215.30** to assist in meeting financial obligations for outstanding medical bills, interest and legal fees associated with the collection of the medical bills. The participant's total deferred compensation **account balance as of September 2, 2025, was \$19,444.69**. The participant has suspended contributions to the deferred compensation account.

The participant received judgement papers from past medical bills that went to collections. The participant did not know these bills were in collections. The participant's financial status is provided in the income and expense statement in Part L, M and N on the application (Attachment #1). Statements substantiating income and expenses have been provided. (Attachment #1). The participant's outstanding medical obligations have been provided along with the legal collection document (Attachment #1).

According to IRC 457 guidelines, the amount requested must be less than or equal to the financial need. According to the IRC section 457 regulations, financial hardship is defined as an unforeseeable emergency resulting from a sudden and unexpected illness or accident occurring to the participant or one of the participant's dependents, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the participant's control. A reference guide is included in the materials (Attachment #2).

Below you will find the relevant North Dakota authority.

**N.D.A.C. § 71-04-03-05. Unforeseeable emergency.**

A participant who, prior to separation from service, experiences an unforeseeable emergency as defined in section 71-04-01-01 may apply for a distribution of the participant's deferred compensation account to the extent reasonably needed to satisfy the financial need. The participant may make application by completing a financial hardship form and delivering it to the retirement board offices.

**N.D.A.C. § 71-04-01-01(13)**

"Unforeseeable emergency" means a severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant, the participant's spouse or dependent of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

**Board Action Requested**

Approve or deny applicant's request for a hardship withdrawal from their State of North Dakota 457 Deferred Compensation Plan account.