

From the CEO 2019 Conferment Update

It's an honor for me to announce that the NDIRF Board of Directors has declared a conferment of benefits for 2019! As a result of last year's fantastic investment portfolio performance, strong underwriting results, and continued responsible stewardship of the Fund, the NDIRF will return nearly \$3.1 million back to its members later this spring. This amount represents the largest conferment of benefits since 2008.

In addition to enjoying coverage rates that are lower than the traditional insurance marketplace, the conferment of benefits program is your entity's opportunity to share in the success of the NDIRF as a member-owner of the Fund. Including the 2019 conferment, the NDIRF has been able to return nearly \$65 million back to its members since the inception of the conferment of benefits program.

A more detailed description of the NDIRF's financial performance from last year will be presented in the 2019 NDIRF Annual Report, to be distributed in May. We hope, however, the conferment checks NDIRF members will receive this spring signify the Fund's success over the past 34 years and your part in it.

On behalf of the NDIRF Board of Directors and our staff, thank you for your membership in the NDIRF. We look forward to providing continued financial stability and valuable coverage and service to NDIRF members in the years ahead!



Brennan Quintus
NDIRF CEO



The Participator Spring 2020

NDIRF to partner with SEEC to create NDPHIT

The NDIRF is proud to announce it will partner with the South East Education Cooperative (SEEC) to create the North Dakota Public Health Insurance Trust (NDPHIT). **The primary function of NDPHIT is to provide local governments with group health coverage and other benefit programs and services**



within the scope of a Voluntary Employee Beneficiary Association (VEBA) trust. Overall, NDPHIT will provide North Dakota local governments with the opportunity to join together to create group health insurance and employee benefit program administrative cost stability and efficiency while also providing local governments with more control over their health insurance and other employee benefit programs. More control will, over time, provide local governments with better coverage, better service, and lower rates.

The NDIRF and SEEC have partnered with benefits consultants at Hays Companies to provide local governments with information regarding NDPHIT and to help onboard entities that are interested in obtaining group health coverage through NDPHIT.

Eligibility and pricing for an entity's participation in NDPHIT will be determined by obtaining each entity's health claims data and the corresponding renewal date of its current health plan. Because each local government entity will have renewal dates at different times, specific information from each entity is needed to determine the specific timeframe and process for each entity.

To learn more about NDPHIT and to explore whether your entity could benefit through participation in it, please contact Jon Heath with Hays Companies at jheath@hayscompanies.com or 801-505-6506. Jon and the Hays Companies team will answer any questions you might have and will also guide you through the steps to receive a quote.

The History and Purpose of NDPHIT

In 2019, the NDIRF began studying the concept of an association health plan for North Dakota local government with the goal of providing local governments with more control over their health insurance plans. The NDIRF was familiar with this concept because it was formed in the 1980s with a similar goal of creating a more cost-effective way to handle property and liability insurance for North Dakota local government.

In the spring of 2019, the NDIRF collected health insurance information from its members so it could analyze the health insurance loss activity to determine if an association health plan for North Dakota political subdivisions was feasible.

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For North Dakota. For Local Government. For You.

Employer Side Effects of Medical Marijuana

Provided by Brian D. Schmidt, Attorney at Law and partner at Smith Porsborg Schweigert Armstrong, Moldenhauer & Smith

Medical marijuana is now legal in North Dakota and employers need to be aware of the legal issues that come with it. Many employers have policies prohibiting any use of marijuana. Public employers need to be aware of the potential legal consequences of enforcing these policies against medical marijuana users.

The North Dakota Human Rights Act (“NDHRA”) makes it illegal to discriminate against any employee for engaging in a lawful activity off the employer’s premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer. Authorized use of medical marijuana is a “lawful activity” under North Dakota law. However, federal law still prohibits the possession and use of medical marijuana. This creates a unique scenario where North Dakota law legalizes medical marijuana use, but federal law does not. So, is it a “lawful activity” under the NDHRA to possess and use medical marijuana off employer premises?

The North Dakota Supreme Court has not yet answered this question. However, other states (with similar medical marijuana and discrimination statutes) appear split as to whether an employer can be sued for discrimination after taking adverse employment action against an employee who uses medical marijuana. For example, in Oregon and Colorado (where medical marijuana is legal) courts determined the use of medical marijuana was not a “lawful activity” in the discrimination context because it is prohibited by federal law. However, a federal court determined an employer could be subject to liability under Connecticut’s anti-discrimination statute for taking adverse action against an employee who used medical marijuana.

We will not know whether possession and use of medical marijuana off the employer’s premises is a



“lawful activity” under the NDHRA until it is decided by our court system. However, if an employer proves the use of medical marijuana is in direct conflict with essential business-related interests, the “lawful activity” inquiry becomes irrelevant under the NDHRA. Depending on an employee’s job duties and performance, this may be difficult to prove. Given the law’s current state, employers are best served by using common sense and reasonableness when making employment decisions that impact medical marijuana users.

Discrimination law is constantly evolving and courts often disagree as to how it should be applied. Further, the Americans with Disabilities Act, Civil Rights Act, and other provisions of law provide additional requirements employers must follow. The legalization of medical marijuana in North Dakota is relatively new and poses questions which have not yet been definitively answered. If you are going to make an employment decision based on medical marijuana use, make sure you consult legal counsel to ensure your decision will not subject your entity to unnecessary liability.

¹ [Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries](#), 230 P.3d 518 (Ore. 2010); [Coats v. Dish Network, LLC](#), 350 P.3d 849 (Colo. 2015).

² [Noffsinger v. SSC Niantic Op. Co.](#), 273 F.Supp.3d 334 (D. Conn 2017).

NDPHIT story ctd. from page 1

Hays Companies provides information to help answer your questions

The results of the study were very encouraging, and the NDIRF decided to move forward to determine how the overall structure of an association health plan for local government could function in North Dakota. During its evaluation, the NDIRF became aware of SEEC's plan to create NDPHIT. Following discussions between NDIRF and SEEC, the two organizations determined it would be in the best interest of all North Dakota local governments to work on a solution to the local government health insurance problem together. To that end, the NDIRF and SEEC began the process of evaluating how each of their ideas could mesh together to create a program that provides local governments with more control over their group health insurance plans.

FAQ

To provide you with further information about the North Dakota Public Health Insurance Trust (NDPHIT), Hays Companies has prepared the following FAQ.

Q. What is the North Dakota Public Health Insurance Trust?

Effective for 2021 plan year, a health insurance cooperative trust is being formed to provide additional resources, benefits, cost efficiencies, and health claim administration discounts to the NDIRF members that choose to participate. Previously, individual North Dakota local government entities have not had access to these additional resources. The trust will be a member-driven organization consisting of political subdivisions and governed by a nine-member board composed of representatives from member entities.

Q. What are the benefits of participating in the Trust?

- Significant program cost savings (decreased administrative costs, large group pooling discounts/efficiencies, etc.) that will contain and stabilize healthcare costs from year to year.
- Access to additional benefits, resources, and services (HR support, enrollment platform, and wellness programs).
- Better reporting available at the administration level to determine factors driving higher costs.
- More flexibility in benefit plans determined at the local government entity level.
- Surplus funding is owned and retained by members of the Trust.
- Better benefit communication including email campaigns, benefit guides, mobile apps, and other options for posters or mailings.
- Promotion of preventative care and wellbeing, outreach services for disease management, and overall improvement of member health value and access to care.

Q. How will this affect current benefits?

- Each local government entity will be able to select its own plan design. Whether this means maintaining the current plan design or improving and/or adding additional plan choices, it will be determined by each entity.
- Members will still have access to their current providers, facilities, pharmacies, etc., with no change to the network. Additional preventative services may be available at no cost to employees.
- Ancillary/voluntary benefit options (i.e. dental, vision, life, disability, accident, critical illness, identity theft) can be provided to staff at greatly discounted rates.



How to Respond to Water and/or Sewage Backup Claims

Provided by Corey Olson, NDIRF Director of Member Services

Backups can occur for a variety of reasons, but no matter the cause, property owners are justifiably upset. Generally, their home, business, or personal property has been significantly damaged, and their lives have been temporarily disrupted.

Often, backups are caused by a blockage from solid items or paper products being introduced into water and sewer systems. When property owners report backups, employees from the entity that provides the service respond to the scene and flush the line to remove the blockage.

If your employees interact with property owners who experience a backup, **it is important your employees refrain from admitting fault or committing to pay for damages because your entity may not be found liable (i.e. responsible and/or the cause of damage)**. Your entity may not be found liable if it routinely performs required inspections and maintenance of its water and/or sewer infrastructure, and promptly addresses findings that could lead to a backup.

Here are suggested talking points for your entity's employees who are assisting property owners who have experienced a backup:

Take action to prevent further damage.

Advise property owners to quickly take action to prevent further damage because if your entity is not found liable for the backup, they will be responsible for all repair costs.

An incident report will be completed.

Inform property owners your entity will first submit an incident report and supplemental documentation to the NDIRF. *Your entity should keep a copy of this report and documentation for your reference.*



A loss notice will be submitted to the NDIRF.

Let property owners know they'll receive a call from an NDIRF claims representative shortly after your entity submits a loss notice.

A full investigation will be completed.

Inform property owners your entity will perform a full investigation to review damages caused by the backup as well as its water and/or sewer inspection, maintenance, and repair records. *Your entity may not be found liable if it routinely performs required inspections, maintenance, and repairs.*

Contact property insurance agent immediately.

Remind property owners to file their water and/or sewer backup claim with their property insurance agent as soon as possible. If your entity is not found liable, property owners may need to recover damage costs through their property insurance policy.



Property owners (homeowners, business owners, etc.) are responsible for maintaining the portion of water and/or sewer line in which backups most frequently occur. The common causes of backups include:

Grease

Cooking oils should never be poured down a drain. Instead, they should be placed in a heat resistant container and properly disposed. As liquefied grease cools, it solidifies, eventually causing a clog.

Paper Products

Bathroom tissue deteriorates rapidly, but other paper-based products do not. Paper towels, disposable and cloth diapers, and feminine products can quickly clog a sewer line.

Tree Roots

Newer plastic-based (PVC) water and/or sewer lines withstand infiltration of tree roots very well; however, materials used in older lines do not. Given that most homeowners don't monitor their lines via camera, they don't catch the problem until it's too late.

Illegal Connections

Residents and businesses should not make any unauthorized connections to the sanitary sewer system. Illegally connected drains, sump pumps, and roof gutters will eventually clog a line.

Backwater Prevention Valve

Older lines without backwater prevention valves are vulnerable to sewage backflow. Properly functioning backwater valves prevent sewage backflow and are common in newer lines.

If you would like more information about how to help prevent water and/or sewer backups, please contact NDIRF Director of Member Services Corey Olson at 800-421-1988 or Corey.Olson@ndirf.com.



Did You Know?

From paper towels and rags to diapers and grease buildup, NDIRF members have recovered a variety of everyday household items that have caused backups in water and/or sewer lines.

It's important property owners understand their role in helping to reduce the chance of backups, so be sure to educate them on safe, responsible use of water and/or sewer lines to help keep these services operating smoothly.

If you need assistance creating an educational flyer regarding safe, responsible water and/or sewer line use, contact NDIRF Director of Member Services Corey Olson at Corey.Olson@ndirf.com.



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NDIRF Hires Drennen

The NDIRF recently hired Joanna Drennen as its marketing and communications manager.

Drennen has bachelor's degrees in English and communications from the University of Mary and is pursuing a master's degree in strategic communication management from Concordia University, St. Paul. She brings nearly 10 years of marketing and communications experience to NDIRF, serving in similar capacities within the technology and financial services industries as well as state government.



Upcoming Events

NDIRF Annual Meeting

May 20
Bismarck, ND

ndirf.com

NDIRF Board of Directors Meeting

May 20
Bismarck, ND

ndirf.com

NDIRF Board of Directors Meeting

September 10
Bismarck, ND

ndirf.com

HR Collaborative

TBD
Bismarck, ND

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