

Testimony
Senate Bill 2012 – Department of Human Services
House Appropriations – Human Resources Division
Representative Pollert, Chairman
February 22, 2007

Chairman Pollert, members of the House Appropriations – Human Resources Division, I am Maggie Anderson, Director of Medical Services, for the Department of Human Services. I am here today to provide you with an overview of the Long-Term Care Continuum budget.

Programs

The long-term care services included in this area of the budget are Nursing Facilities, Basic Care Facilities, and the Home and Community-Based Services Programs, which have the following funding sources: Service Payments for the Elderly and Disabled (SPED); Expanded SPED; Personal Care; Targeted Case Management; and the Medicaid Aged and Disabled and Traumatic Brain Injury Waivers. The Developmentally Disabled Community-Based Care is now located in this area of the budget.

The Long-Term Care Continuum encompasses a wide range of medical and support services for individuals who lack some capacity for self-care, and are expected to need care for an extended period of time.

Program Trends

Nursing Facilities

The percentage of Medicaid-eligible individuals in nursing facilities remains fairly constant at 56-57 percent. For September 2006, 17

facilities were below 90 percent occupancy. The average occupancy for these 17 facilities is 77 percent. The Department continues to believe that a moratorium on the number of nursing facility beds should remain.

The number of individuals receiving hospice service in Nursing Facilities continues to increase. As you can see on **Attachment A** (Nursing Facility Hospice), this number, from all funding sources, has doubled since January 2003.

Basic Care

Overall, the Basic Care program has seen very little change over the interim. However, you may have heard recently about the Department being involved in efforts to transition individuals from Redwood Village in Wilton, ND. Redwood Village is a Basic Care facility operated by Pride, Inc. During the interim, the Department became aware that Redwood Village was operating outside of the allowable rules for Medicaid payments, because they meet the Federal definition of an Institution for Mental Disease. Efforts have been made to ensure Redwood Village is in compliance with the Federal Regulations and the Department has initiated Administrative Rules to address the unique needs of Basic Care facilities that serve this population.

Home and Community-Based Services (HCBS)

The Aged and Disabled Waiver was set for renewal this fall. At that time, a decision was made to combine the Traumatic Brain Injury Waiver and the Aged and Disabled Waivers into one Waiver, now titled Home and Community-Based Waiver. Since this decision was made after the budget

was submitted, the Executive Budget reflects the waiver as separate categories.

The Department is working closely with the Centers for Medicare and Medicaid Services to ensure home and community-based services are available for individuals who are ventilator dependent. The Deficit Reduction Act offers an opportunity to provide these services in a more efficient manner.

The budget reflects a change in functional eligibility criteria for the Service Payments for the Elderly and Disabled (SPED) program. Previously if an individual had impairments with five Instrumental Activities of Daily Living (IADLs), he/she was functionally eligible for SPED. The Executive Budget proposes that individuals must be impaired in at least one Activity of Daily Living (ADL), in addition to the five IADLs, in order to be deemed functionally eligible for SPED. All currently enrolled individuals would be grandfathered in to SPED. The budget also reflects a proposed cap on enrollment for the ExSPED program at 141 individuals. Both of these decisions were made during the Department's budget preparation and review processes.

In November, the Department submitted an application for the Money Follows the Person Demonstration Grant. If funded, this grant offers the opportunity to build an infrastructure to assist individuals at the Developmental Center and in Nursing Facilities in moving to non-institutional settings. We expect to hear about the grant application in March.

Developmental Disabilities

According to the Research and Training Center on Community Living at the University of Minnesota:

- The national average rate of placement in residential settings for persons with Intellectual Disabilities (ID)/Developmental Disabilities (DD) in 2005 was 138.7 persons per 100,000 of the general population. North Dakota ranked number one with 317.1 persons per 100,000 state residents.
- Nationally, the combined average Intermediate Care Facilities for the Mentally Retarded (ICF/MR) and Home and Community-Based Services (HCBS) utilization rate was 184.0 persons per 100,000 of the population. North Dakota ranked number one with 579.1 persons per 100,000 state residents.
- Nationally, 149.7 persons per 100,000 of the population received HCBS. North Dakota ranked number one with 483.3 persons per 100,000 state residents.
- 95.4 percent of all North Dakotan's with ID/DD received ICF/MR and HCBS in the community. The national average was 88.8 percent.

Accomplishments in this area during the interim include:

- The Department implemented the Medicaid HCBS Self-Directed Supports waivers for families and individuals July 2006.

- 4,814 persons received developmental disabilities case management services in SFY 2006.
- 2,102 persons received residential and/or day services and 1,854 families received family support program services.
- 3,299 persons with developmental disabilities received home and community-based services in waiver year ending March 31, 2006.

Developmentally Disabled – Challenges - For people of all ages with developmental disabilities, direct support staff are the key to living successfully in their home communities. Retention and recruitment issues threaten the ability to provide adequate supports. Unable to find adequate assistance, people find their health, safety, and sometimes, their lives in jeopardy. Concerned about the shortage of direct support professionals supporting persons with intellectual disabilities and other developmental disabilities, Congress requested the Department of Health and Human Services (HHS) conduct a study including an examination of the root causes associated with high vacancy and turnover rates, and an examination of the impact this shortage may be having on services for people with intellectual disabilities/ developmental disabilities. For your convenience, attached to my testimony (**Attachment B**) is a synopsis of relevant findings from the report HHS prepared for Congress.

Overview of Budget Changes

Description	2005 - 2007 Budget	Increase / Decrease	2007 - 2009 Budget	Senate Changes	To House
Nursing Homes	343,013,040	35,442,336	378,455,376	3,626,542	382,081,918
Basic Care	13,301,971	1,099,275	14,401,246	265,890	14,667,136
TBI Waiver	2,865,642	(1,116,761)	1,748,881	51,638	1,800,519
Aged & Disabled Waiver	3,399,903	1,607,276	5,007,179	450,282	5,457,461
SPED	13,021,263	(3,919,745)	9,101,518	1,167,010	10,268,528
Ex-SPED	838,037	(170,045)	667,992	92,349	760,341
Personal Care	15,508,384	3,848,984	19,357,368	3,313,979	22,671,347
Targeted Case Mgmt.	2,064,693	(1,172,091)	892,602	26,319	918,921
DD - Comm. Based Care	211,329,320	55,799,057	267,128,377	7,617,862	274,746,239
DC Transition Funds	50,000	(50,000)	-	-	-
Total	605,392,253	91,368,286	696,760,539	16,611,871	713,372,410
General	221,915,185	36,579,592	258,494,777	6,630,220	265,124,997
Federal	378,413,045	57,132,699	435,545,744	9,759,358	445,305,102
Other	5,064,023	(2,344,005)	2,720,018	222,293	2,942,311
FTEs	-	-	-	-	-

Budget Changes from Current Budget to Executive Budget:

- Nursing Facility services account for about 54 percent of the budget for the long-term care continuum. (Compare to 57 percent for 2005-2007 Budget)

- Basic Care accounts for about two percent of the budget for the long-term care continuum. (Compare with two percent for 2005-2007 Budget)
- Home and Community-Based Services account for about five percent of the expenditures for the long-term care continuum. (Compare to six percent for the 2005-2007 Budget)
- DD Grants account for about 39 percent of the expenditures for the long-term care continuum. (Compare to 35 percent for the 2005-2007 Budget)
- This portion of the budget also contains an inflationary increase for providers at three percent each year of the Biennium.
- The impact of the decline in the Federal Medical Assistance Percentage on general funds for the Long-Term Continuum is \$4.96 million.

Nursing Facilities

- The Executive Budget request for nursing facilities totaled \$378.4 million, of which \$136.4 million are general funds. The current budget for nursing facility services is \$343 million of which \$120.8 million are general funds. This \$35.4 million increase is related to: Cost increases, including rebasing in 2009 (\$22.8 million), Caseload and Utilization increases (\$2.4 million), the three percent inflationary increase (\$9.7 million), and an increase to the Nursing Facility Building Limits (\$.5 million). **Attachment C** shows

historical information on expenditures and average daily Nursing Facility Rates.

- The Executive Budget for nursing facilities was based on Medicaid occupancy of 3,609 beds per month. The occupancy includes 3,400 - nursing facility; 9 – Dakota Alpha; 14 – Geropsych Unit; 60- Swing Bed; 68 – Hospice Room and Board; and 58 – Out of State.

Basic Care

- Expenses for Basic Care are expected to be \$1.1 million more than the current budget. This is primarily due to an increase in caseload and utilization, and to the three percent inflationary increase for all providers.

Home and Community- Based Services

Again this area includes many funding sources such as the various Medicaid waivers, personal care services, SPED, etc. The details of the cost changes by specific funding source are something we can further discuss as we continue the review of the budget. Collectively the net change is a decrease of \$0.9 million. The contributing factors to that decrease are cost increases of \$6.3 million; \$1.2 million for the three percent inflationary increase for each year of the biennium; offset by utilization decreases of \$8.4 million.

- The TBI Waiver has served fewer individuals than was expected when the 2005-2007 Budget was prepared. For 2007-2009, the Medicaid Waiver for Individuals with Traumatic Brain Injury has

been budgeted for an average of 27 individuals per month. (The 2005-2007 Budget was built on an average of 50 individuals per month.)

- When the 2007-2009 Budget for the Aged and Disabled Waiver was prepared, several services were added: attendant care (for individuals who are ventilator dependent), nurse management services, home-delivered meals for disabled adults under 60 years of age, and an additional payment for Adult Family Foster Care providers who provide care for more than one individual. The vent-dependant service is set to be implemented soon; however, the other services will not be implemented until budget approval is received. The Medicaid Waiver for the Aged and Disabled has been budgeted for an average of 239 individuals per month, which is a decrease from the average of 421 which was budgeted for 2005-2007.
- The SPED budget reflects a decrease in cases due to the change to the functional eligibility criteria. In addition, there is a decrease in the caseload based on the individuals not presenting for services, as anticipated when the 2005-2007 Budget was prepared.
- The Expanded SPED program was built with a cap of 141 individuals. The 2005-2007 Appropriation was based on an average of 202 persons per month. The average number of persons actually receiving ExSPED services for the current biennium is 125; therefore, it is not likely that the cap will be reached.

- When the 2005 -2007 Budget for Personal Care Services was prepared, the Centers for Medicare and Medicaid Services had not approved the Medicaid State Plan. The budget was built with the best information available at the time, which was based on an average cost per person of \$906.44. Based on cost information for Personal Care services provided in the current biennium, we are estimating an average cost per person of \$1,190.49 for the 2007-2009 Budget.
- Targeted Case Management has also experienced a decline in utilization. The 2005-2007 Budget was based on 509 individuals and an average cost of \$169.15 per person per month. The 2007-2009 Budget was built on 340 individuals per month and an average cost of \$109.40 per person per month. For the first four months of State Fiscal Year 2007, the average number of individuals receiving Targeted Case Management services was 351.

Developmental Disabilities

The increases of approximately \$55.8 million in the DD Grants are from four areas:

- \$22.3 million is due to changes in the caseload that occurred during the 2005-2007 Biennium and must be sustained in the 2007-2009 Biennium. This increase also reflects anticipated increases in caseloads during the 2007-2009 Biennium due to graduations from high school and the birth of children with developmental disabilities. The increase consists of \$7.5 million in general funds and \$14.8 million in federal funds.

- \$11.6 million is due to cost changes that occurred during the 2005-2007 Biennium, which must be sustained during the 2007-2009 Biennium. The cost change increase consists of \$3.4 million in general funds and \$8.2 million in federal funds.
- \$11.2 million is due to a three percent inflationary increase each year of the 2007-2009 Biennium. The increase consists of \$4.1 million in general funds and \$7.1 million in federal funds.
- \$10.7 million is due to a 60 cent per hour increase for the DD staff. Of this, \$3.9 million is general funds and \$6.8 million is federal funds.

Senate Changes:

Provider Inflation - \$8.1 million in total funds, of which \$3.1 million are general funds were added to provide a 4% annual inflation increase.

Qualified Service Providers (QSPs) - \$4.1 million in total funds, of which \$2.15 million are general funds were added to establish a fee-for-service method of reimbursing QSPs. Individual QSPs would be reimbursed at \$3.16 per 15-minutes and agency QSPs would be reimbursed \$4.50 per 15-minutes, before consideration of any inflationary increases.

Personal Care Allowance - \$.5 million of total funds, of which \$170,500 would be from the Health Care Trust fund and the remaining \$329,350 would be federal Medicaid match. This change would increase the

monthly personal care allowance from \$50 to \$55 per month for individuals residing in nursing homes and intermediate care facilities for persons with mental retardation.

Developmental Center Transition - \$2.5 million in total funds, of which \$.9 million are general funds were added to assist residents transitioning from the Developmental Center to community programs.

Medically Fragile - \$.8 million in total funds, of which \$.3 million are general funds were added to increase the payment rates for Medically Fragile children residing at the Anne Carlsen Center For Children.

Children with Behavioral Challenges - \$.6 million in total funds, of which \$.2 million are general funds were added to increase the payment rates for facilities serving children with behavioral challenges.

The Senate also included Amendments in Section 15, and Sections 18 – 21 and Sections 23 and 24 that would require the Department to change the name of the Qualified Service Providers to Home Service Providers. Section 26 would require these Sections to be effective July 1, 2008.

This concludes my testimony of the Long Term Care Continuum.
I would be happy to answer any questions you may have.