

Testimony
House Bill 1404 – Department of Human Services
Senator Judy Lee, Chairman
March 6, 2007

Chairman Lee, members of the Senate Human Services Committee, I am Carol K. Olson, Executive Director of the Department of Human Services.

House Bill number 1404 proposes to create a legislative council medical assistance committee comprised of members of the House of Representatives and Senate, as well as representatives of provider groups and the Department of Human Services. The Department does not oppose a study of Medicaid; in fact, the Department has already established a Medicaid Medical Advisory Committee to make recommendations regarding policy development and program administration including long-term Medicaid sustainability. For your reference, a list of the Medicaid Medical Advisory Committee members is attached. (Attachment A)

What is important to the Department is to understand the purpose and authority of the committee and the intended interaction of the committee in fulfilling its legislative functions and the Department in fulfilling its duties in administering the Medicaid program. For example:

What is the purpose of the committee?

What, if any, role would the committee play in the day-to-day administration of the Medicaid program?

Will the Department be able to make program decisions and policy changes in the Medicaid program without consulting this committee?

How does the work of this committee align with the efforts that have been initiated within the Medical Services Division?

What is the role of the Department representatives noted in the bill?

Does this committee replace the Medicaid Makeover group (Medicaid Medical Advisory Committee) that has been assembled to look at long-term Medicaid sustainability issues?

The Department posed these same questions when House Bill 1404 was heard in House. We **continue** to seek answers and would greatly appreciate clarification of the intended role of the committee.

Because the intended purpose of the committee is not clear, I feel it is important to point out that federal Medicaid regulations specify that, in order to be eligible for federal financial participation, there must be a single state Medicaid agency that is designated to administer or supervise the administration of the Medicaid state plan.¹ The Department of Human Services is the single state agency in North Dakota. Attached is a copy of the specific citation related to single state agency (Attachment B). In summary, the committee proposed in this bill can serve in an advisory capacity to the single state Medicaid agency, but according to the federal Medicaid regulations, it cannot issue policies, rules, or decisions or exercise administrative discretion in the administration or supervision of the Medicaid program.

¹ 42 C.F.R. § 431.10

Because federal financial participation is only available to the single state agency, the funds appropriated to the legislative council in sections two and three of the bill would not be eligible for federal matching funds.²

As we did when House Bill 1404 was heard in the House, the Department offered two amendments to this bill. Neither amendment was adopted by the House. In order to ensure the most open, inclusive approach to “studying” Medicaid, there should be representation of recipients and advocates. The Department recommends an amendment to ensure the inclusion of recipients or recipient advocates or both. (Attachment C)

The Department also proposes an amendment to this bill that would clarify the number of representatives from the Department on the committee. At a minimum, the Department would request the Executive Director, the Medical Services Director and the Director of the Legal Advisory Unit be ex officio members of the committee. (Attachment C)

I would be happy to answer any questions that you may have.

² 42 U.S.C. 1396a(a)