

Testimony
House Bill 1012 – Department of Human Services
House Appropriations Committee – Human Resources Division
Representative Pollert, Chairman
January 12, 2009

Chairman Pollert, members of the House Appropriations Human Resources Committee, 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 Traditional Medicaid and the State Children's Health Insurance Programs, as well as the administrative costs of the Medical Services Division. The Long-Term Care Continuum overview will be provided separately.

Programs

The Medical Services Division currently administers two programs; they are Medicaid and the State Children's Health Insurance Program (Healthy Steps). This area of the budget for Medicaid and Healthy Steps provides health care coverage for families and children, pregnant women, the elderly, and the disabled citizens of North Dakota. **Attachment A** shows the Medicaid Mandatory and Optional Services, and **Attachment B** shows the current services that have a limit or a co-payment.

Caseload

Attachment C shows the Medicaid Enrollment (eligibles) and the unduplicated count of recipients for each month of the current biennium.

During the current biennium (effective October 1, 2008), the income level for Healthy Steps was increased to 150 percent (net). For the Executive

Budget, Healthy Steps was built on an average caseload of 6,021 children, which includes the growth expected as a result of increasing the income level to 200 percent (net). **Attachment D** shows the number of children enrolled each month in Healthy Steps since the beginning of the current biennium, and also provides the number of children enrolled in Medicaid for the same time period. Clearly, we are experiencing an enrollment trend change, which appears to be directly related to the implementation of 12-month continuous eligibility for Medicaid children. You can see from the chart that the Healthy Steps enrollment declined a bit between June and July. This decline has increased at a higher rate in the past two months. The chart also shows that enrollment of children in Medicaid, starting in June 2008, has significantly increased. The Department continues to explore the details of this trend change to ensure we can appropriately project expenditures for the current biennium and for 2009-2011.

The statute change needed (NDCC 50-29-04) to increase the income level for Healthy Steps is included in Section 7 of 2009 House Bill 1012. The Healthy Steps increase to 200 percent (net) is also contingent upon Congressional action regarding the reauthorization of, and increased appropriations for, the State Children's Health Insurance Program. In addition, any increase to the income level will require federal (Centers for Medicare and Medicaid) approval.

Program Trends / Program Changes

Federal Medical Assistance Percentage (FMAP)

The Federal Medical Assistance Percentage (FMAP) is calculated based on per capita income over a three-year period. The overall economy in

North Dakota continues to see improvement a bit faster than other states; therefore, the FMAP for North Dakota will continue to fall through Federal Fiscal Year 2010. The current FMAP (through September 2009) is 63.15 percent. The percentage will drop to 63.01 percent for Federal Fiscal Year 2010 (October 1, 2009 - September 30, 2010) and we estimated it to be 63.01 percent for Federal Fiscal Year 2011 (October 1, 2010 – September 30, 2011).

The estimated FMAP impact for this portion of the budget will be provided later in my testimony.

Medicaid Medical Advisory Committee

The Medicaid Medical Advisory Committee continues to meet quarterly to provide input, review and direction to the Department with regard to the Medicaid program. In addition, this committee has been exploring the “modernizing” of the Medicaid program. Three areas of specific focus have been identified; they are: Care Coordination, Dental Access, and Telehealth/Telemonitoring. The committee has been receiving and reviewing a variety of presentations and proposals regarding the identified areas. We expect to move forward with these efforts in 2009, following the Legislative Session. A list of the committee members during the current interim is included as **Attachment E**.

Medicare Savings Programs

The Medicare Improvements for Patients and Providers Act of 2008, which was signed into law on July 15, 2008, increases the federal asset allowance for individuals who apply for coverage under the Medicare Savings Programs (QMBs, SLMBs, and QIs), to be equal to the asset allowance for LIS (low income subsidy) recipients of Medicare Part D.

These new asset levels are effective January 1, 2010. We do not know the exact levels yet as they are increased each year by the Consumer Price Index (CPI). Based on the 2008 amounts, the asset allowance level for a one person household is anticipated to increase from \$4,000 to \$7,790 (+ CPI for 2009 and 2010); and from \$6,000 for a couple to \$12,440 (+ CPI for 2009 and 2010). This will allow current recipients to save more assets (the impact for current recipients would be minimal), and will allow additional individuals to qualify for coverage. The above act also prohibits estate recovery collections for Medicare Savings Programs costs paid by Medicaid. The estate recovery will have to end for all recipients who die after January 1, 2010, even for periods they were eligible prior to that date. This will reduce estate recovery cases; however, the impact is unknown at this time. To the extent possible, the affects of this federal legislation have been included in the Executive Budget request.

Critical Access Hospitals

2007 Senate Bill 2012 provided funding to increase the Medicaid reimbursement rate for Critical Access Hospitals to 100 percent of cost. This change was implemented July 1, 2007. During the interim, the Department has been very involved in meetings with the Centers for Medicare and Medicaid Services (CMS) and the North Dakota Healthcare Association about the limitations in federal statute and regulations regarding payment for Medicaid services at cost. Medicare and Medicaid are two different programs; and while there are many similarities, there are differences in the federal reimbursement rules that govern each program. For example, federal laws and regulations do not allow Medicaid to reimburse 100 percent of cost for lab services (Section 1903(i)(7) of the Social Security Act) or for the services of certified registered nurse

anesthetists (42 CFR 440.20 - Final Rule Published November 7, 2008 in Federal Register).

Medicaid Buy-In for Children with Disabilities

During the 2007 Legislative Assembly, Senate Bill 2326 authorized the Department of Human Services to develop and implement a Medicaid Buy-In for Children with Disabilities. This program is for families who have a child who is disabled (as defined by Social Security) and have a net income of 200 percent or less of the federal poverty level. This program became effective April 1, 2008 and as of December 1, 2008 has 10 children enrolled.

Twelve-month Continuous Eligibility for Children

Twelve-month continuous eligibility for Medicaid-eligible children was implemented June 1, 2008. This allows all Medicaid-eligible children 12-months of eligibility, during which there is no income reporting needed to retain benefits. As noted earlier, the preliminary enrollment numbers of children in Medicaid appear to indicate a significant trend change resulting from continuous eligibility. While the number of children in SCHIP has declined recently, when comparing enrollment numbers of both SCHIP and Medicaid from one year ago (November 2007 = 31,457) to current (November 2008 = 36,047) an additional **4,590** children are receiving health care coverage. The Executive Budget request retains continuous eligibility for 2009-2011.

Optometric Service Limits Changes

On January 1, 2004, the Medical Services Division implemented several new service limits and changed other, existing service limits (Reference: **Attachment B**). At that time, the limit imposed on eye exams and eye

glasses for individuals 21 years of age and older was changed from once every two years to once every three years. During the current interim, the North Dakota Optometric Association presented information to the Department on the Optometric Practice Guidelines (from the American Optometric Association). The Medicaid service limits conflict with the Optometric Practice Guidelines for eye care. Recognizing the importance of proper eye care, the Executive Budget contains funding to reduce the eye exam and eye glasses limit from once every three years to once every two years. The cost for changing the optometric service limits for adult eye exams and glasses is \$128,987 of which \$47,531 are general funds.

Funeral Set Aside

The current Funeral Set Aside for Medicaid-eligible individuals is \$5,000 and was last increased on July 1, 2005. During the current interim, the North Dakota Funeral Directors Association provided information that demonstrates the average cost for a funeral is \$9,314; they also requested the funeral set aside be increased to \$7,000. The Executive Budget contains the funding (\$566,000 in total funds, of which \$209,297 are general funds) to increase the Funeral Set Aside from \$5,000 to \$7,000.

Section 6 of 2009 House Bill 1012 provides the language necessary to amend Section 50-24.1-02.3 of Century Code to authorize this change.

Durable Medical Equipment Reimbursement Changes

At the request of the Durable Medical Equipment Providers, the Executive Budget includes an increase to the fee schedule for certain wheelchair accessories, sit-to-standers and labor for repairs and adjustments to

wheelchairs. The funding to implement these changes (\$69,726 total and \$25,695 general) is included in the Executive Budget request.

Increase Medically Needy Income Levels

The medically needy income levels are intended to allow an individual, couple, or family enough money to meet their expenses for shelter, food, utilities, and clothing as well as other maintenance needs. Income above the "Medically Needy Income Level" is considered "recipient liability" and must be applied toward medical expenses before the individual becomes eligible for Medicaid. The current level for a one-person household is \$500 per month and for two persons it is \$516 per month. These levels have been frozen since 2003 and are lower than what is allowed for SSI recipients, who are Medicaid eligible with no recipient liability. The Executive Budget funds an increase in the medically needy income levels to 83 percent of poverty. According to the 2008 Poverty Levels, at 83 percent of poverty, the income levels would be \$720 and \$969 for one and two-person households, respectively. It is expected that this increase would benefit around 3,200 individuals. Please see **Attachment F** for a Fact Sheet on Medicaid Medically Needy Coverage.

Immunization Administration Fees for Children

The Executive Budget includes funding to increase the Medicaid fee schedule for immunization administrations for children. The increased funding is based on the number of Medicaid immunizations, as recorded by the North Dakota Department of Health. The fee schedule for immunizations would be increased to \$13.90 for initial immunizations, which is the Regional Maximum set by the Federal Government for immunization administration. The fee schedule for subsequent

immunizations received during the same visit would be increased by \$4.69 each.

Overview of Budget Changes

Description	2007 - 2009 Budget	2009 - 2011 Budget	Increase / Decrease
Salary and Wages	7,111,808	8,372,238	1,260,430
Operating	23,778,877	23,803,330	24,453
Grants	417,381,648	519,779,299	102,397,651
Total	448,272,333	551,954,867	103,682,534
General Funds	140,880,119	170,852,118	29,971,999
Federal Funds	284,324,572	351,621,948	67,297,376
Other Funds	23,067,642	29,480,801	6,413,159
Total	448,272,333	551,954,867	103,682,534
FTE	67.50	70.00	2.50

The Salaries line item increased by \$1,260,430 and can be attributed to the following changes:

- \$776,828 in total funds, of which \$348,586 are general funds, is due to the Governor's salary package for state employees.
- \$116,184 in total funds, of which \$62,170 are general funds, is needed to fund the second year employee increase for 24 months versus the 12 months that are contained in the current budget.
- \$117,476 in total funds, of which \$30,402 are general funds, is related to the additional 1.5 FTE funded in the Executive Budget related to increasing Healthy Steps to 200 percent of net income.

Currently 33 percent of Healthy Steps applications are processed by the Healthy Steps eligibility staff in the Medical Services Division. If the income level for SCHIP is increased to 200 percent (net), we would expect a greater percentage of the applications to be processed in Medical Services. This is because, as the income threshold is increased, a lower number of applicants will also qualify for other economic assistance programs. The Medical Services Division will monitor the need to fill these positions, as we track Healthy Steps enrollment and program operations.

- \$121,630 in total funds, of which \$60,818 are general funds - related to the addition of one FTE funded in the Executive Budget related to the planning, development, implementation and management of a Medicaid Autism waiver. This work would not be able to be managed by the existing staff in the Medical Services or Developmental Disabilities Divisions.
- The remaining \$128,312 is a combination of increases and decreases needed to sustain the salary of the 70 FTE in this area of the budget.

The Executive Budget for Operating Expenses is \$23.8 million, which is a hold even budget for this area.

- The Medicare Part D Clawback payment is the most significant portion of this budget area. The Clawback is estimated at \$19.4 million for 2009-2011. This is an increase of \$.25 million over the current budget of \$19.15 million, and was built based on an average of 9,450 individuals at \$85.61 per month. The Clawback payment is funded with 95.9 percent general funds and 4.1 percent estate collections.
- Operating expenses also include contracts for services, such as: medical consultants; utilization review and prior authorization; drug

pricing; Medicaid Identification cards; nursing facility screenings; actuary services; and third party liability identification.

The Executive Budget for the Grants in this area reflects an increase of \$102.4 million in total funds, of which \$30.3 million are general funds, and \$5.9 million are other funds. The \$102.4 million increase is a combination of the following: cost changes \$52.2 million increase; utilization changes \$20.9 million decrease, funding to increase reimbursement for hospitals, physicians, chiropractors, ambulance services and dental providers (\$40.1 million); the seven percent/seven percent inflationary increase* (\$21.0 million); funding for the increase to the Medically Needy Income Levels (\$5.5 million); funding to increase the Medicaid reimbursement for immunizations for children (\$182,701); and funding to increase the income level for the Healthy Steps program to 200 percent (net) (\$4.3 million).

*Inflationary increases are not provided for the first year of the Biennium for hospitals, physicians, chiropractors and ambulance service providers.

The impact to the Traditional Medicaid Grants as a result of the FMAP reductions is \$3.2 million.

The Executive Budget includes funding for the following rebasing and other program/service changes:

- 2007 Senate Bill 2012 included funding and a directive for the Department of Human Services to hire a health care consultant to determine the cost of rebasing payment rates under the medical

assistance program for hospital, physician, dental, ambulance and chiropractic services to the actual cost of providing these services.

<u>Service</u>	Total	General	Federal/Other
<u>Hospitals</u>			
Rebase Funding	22,013,114	8,140,450	13,872,664
Inflation 0% / 7%	9,072,276	3,285,225	5,787,051
Total Rebase & Inflation	31,085,390	11,425,675	19,659,715
<u>Physician</u>			
Rebase @25%	13,250,000	4,899,850	8,350,150
Inflation 0% / 7%	2,430,643	882,558	1,548,085
Total Rebase & Inflation	15,680,643	5,782,408	9,898,235
<u>Chiropractor</u>			
Rebase Funding	416,000	153,836	262,164
Inflation 0% / 7%	32,886	12,140	20,746
Total Rebase & Inflation	448,886	165,976	282,910
<u>Ambulance</u>			
Rebase @ Medicare Rates	2,011,114	743,710	1,267,404
Inflation 0% / 7%	187,814	69,427	118,387
Total Rebase & Inflation	2,198,928	813,137	1,385,791
<u>Dentists</u>			
Rebase Fee Schedule @ a Minimum of 75% of Avg. Billed Charges	2,445,138	904,167	1,540,971
Inflation 7% / 7%	1,738,698	641,918	1,096,780
Total Rebase & Inflation	4,183,836	1,546,085	2,637,751

- The funding included for hospital services covers inpatient, outpatient, inpatient psychiatric, inpatient rehabilitation and long-term care hospitals. It does not include Critical Access Hospitals, Indian Health Services, or Out-of-State Hospitals. The per diem

rates for inpatient psychiatric and inpatient rehabilitative services are limited to one standard deviation from the mean.

- The funding included for physician services is twenty-five (25) percent of the results of the rebasing report.
- The funding provided for ambulance services is to increase the ambulance fee schedule to the Medicare rates on July 1, 2009.
- The funding provided for dental services would allow the Department to “rebase” the Medicaid dental fees (for both children and adults) to a minimum of 75 percent of the average billed charges. Medicaid dental fees that are currently above the 75 percent level would remain at their current level (plus inflation) and the dental fees that are below the 75 percent level would be raised to 75 percent of the average billed charges. Currently many of the children’s Medicaid dental services are reimbursed more than 75 percent of the average billed charges.
- The Executive Budget includes \$5.5 million (\$2.0 million general funds) to increase the Medically Needy Income Levels to 83 percent of the federal poverty level.
- To implement the immunization administration fee change discussed under Program Changes, the Executive Budget request includes \$182,701 of general funds; however, the federal funds available for this service were overlooked during the budget preparation process.
- The Executive Budget includes \$566,000 (\$209,297 general funds) to increase the funeral set aside to \$7,000, effective July 1, 2009.
- The Executive Budget requests \$142.3 million for Inpatient Hospital Services, of which \$51.2 million are general funds. The current budget is \$106.5 million. In addition to the utilization and cost trends, the increase includes funds for rebasing hospital services to

cost (\$22 million) and seven percent inflation for year two of the biennium (\$6.1million)

- The Executive Budget request for Outpatient Hospital Services is \$63.4 million, of which \$23.1 are general funds. The current 2007-2009 projected expenditures for Outpatient Hospital Services is \$53.8 million. The increase requested includes the funding for the inflationary increase in year two of the biennium (\$3 million) and to fund the expected cost and utilization changes.
- For Prescription Drugs, the Executive Budget requests \$50.2 million, of which \$.8 million are general funds, and \$17.3 million are retained funds. The prescription drug inflation is estimated at four percent per year for brand name drugs and two percent per year for generics. The generic/brand split is estimated to be 68 percent/32 percent respectively. The Executive Budget reflects a \$14.8 million decrease over the current appropriation. The current appropriation was estimated too high, which is primarily a result of (1) having very little "post Part D" data when the 2007-2009 Budget was prepared, (2) a different generic/brand split than was budgeted (60/40 - 2007-2009 budget) vs. (68/32 - 2007-2009 actual), and (3) increased rebates over what was budgeted for 2007-2009.
- The Executive Budget requests \$74.3 million for Physician Services, of which \$27 million are general funds. The request includes an increase toward the rebasing of the physician fee schedule (\$13.3 million) and a seven percent inflationary increase for year two of the biennium (\$2.4 million). The budget request for physicians would have been higher; however, the Department has implemented a clarification of category of service reporting on the Medicaid budget documents. This clarification is part of some

preliminary work done this interim to prepare for the implementation of the new MMIS. Previously some codes within several service categories (such as Health Tracks Screenings, Psychological Services, Physical Therapy, and Optometric Services) were reported under Physicians, when, more appropriately, they should have been reported in the categories noted below:

These clarifications are a portion of the cost and utilization increases in the following service lines. These include Health Tracks (\$2.7 million increase); Occupational Therapy (\$.6 million increase); Optometric Services (\$1.2 million increase); Physical Therapy (\$1.1 million increase); and Psychological Services (\$3.0 million increase).

- The Executive Budget Request for Psychiatric Residential Treatment Facilities is \$25.9 million, of which \$9.6 million are general funds. The increase in this area (\$5.1 million) includes the cost and utilization increases as noted from the trends when preparing the budget and \$1.8 million to fund a seven percent increase in both years of the biennium.
- The Healthy Steps request is based on increasing the income eligibility level to 200 percent (net). It is expected this increase to expand coverage to enroll an average of 6,021 children per month, at an average premium of \$243.93 per child. This premium reflects an increase of 20.52 percent over the average premium paid for the current biennium. The total Healthy Steps request is \$35.2 million of which \$9.1 million are general funds.
- The Indian Health Services request is for \$27.2 million, all of which are federal funds. The request in this area represents an \$11.3 million increase. The increase results from cost and utilization changes and from the way the units of service and cost per unit are

presented, which are additional changes made as preliminary steps in implementing the new MMIS.

- The Executive Budget request for Dental Services is \$18.1 million (of which \$6.7 million are general funds). This is a \$4.8 million increase over the 2007-2009 Budget. The increase includes \$2.4 million for “rebasings” the Dental fee schedule to a minimum of an average of 75 percent of billed charges and \$1.7 million for the seven percent inflation for both years of the biennium. The remaining \$.7 million increase is to cover the utilization and cost trends used in preparing the budget.
- The Executive Budget Request for Premiums is \$24.5 million, of which \$8.7 million are general funds. This request represents a \$.8 million increase over the 2007-2009 Budget. This area includes Premiums for cost-effective health insurance and the Medicare Savings Programs.
- The Executive Budget Request for Ambulance Services is \$5.7 million of which \$2.1 million are general funds. This increase includes \$2 million for rebasing the Ambulance reimbursement rates to those paid by Medicare and a seven percent inflationary increase in year two of the biennium (\$187,814).
- The request for Chiropractic Services is \$987,572, of which \$.4 million are general funds. This increase includes the rebasing of \$416,000 and seven percent inflation (\$32,886) for the second year of the biennium.
- The Executive Budget request for Durable Medical Equipment is \$6.8 million (of which \$2.5 million are general funds). This is a \$1.5 million increase over the 2007-2009 Budget which includes the funding for the seven/seven percent inflationary increase (\$.7

million) and the utilization and cost trends, including the reimbursement changes noted earlier (\$69,726).

- The remaining changes are in the other services such as: Lab and Radiology Services (\$.2 million increase), Speech and Hearing Services (\$.2 million increase), Targeted Case Management – Pregnant Women and Division of Juvenile Services (\$1.2 million decrease), Disease Management (\$ 1.1 million increase), Federally Qualified Health Centers and Rural Health Clinics (\$.6 million increase), Transportation Services (\$.7 million increase), and Special Education Services (\$.3 million decrease – all federal funds).

Attachment G shows each Traditional Medicaid Service comparing the 2007-2009 Budget, 2007-2009 Projected Need, and the 2009-2011 Executive Budget request.

Nurse Aide Registry and Nursing Facility Survey

The Medical Services Budget no longer contains the general funds for the Nurse Aide Registry and Nursing Facility Survey costs. The general funds are budgeted in the Department of Health's budget for 2009-2011. The federal funds are in Medical Services Budget; and are \$2,170,377 for Nursing Facility Surveys and \$137,034 for Nurse Aide Registry for 2009-2011.

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