Testimony
House Bill 1325 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
January 24, 2011

Chairman Weisz, members of the Human Services Committee, I am LeeAnn Thiel, Administrator of Medicaid Payment and Reimbursement Services of the Medical Services Division for the Department of Human Services. I am here today to provide information on the fiscal note for HB 1325.

The fiscal impact was calculated based on the June 30, 2010 nursing facility cost reports. The indirect and property portion of a nursing facility's rates are calculated based on the greater of the facility's actual reported census or census based on 90% occupancy of the facility's licensed beds. For this fiscal note, it was assumed that all facilities that were subject to the 90% occupancy limitation on their 2011 rates would take advantage of the bed layaway program. The estimated fiscal impact to the Medicaid program for eighteen months is $1,285,129, of which $573,167 would be general funds. The estimated impact for private pay individuals is $1,195,390. Nursing facility rates would be affected beginning January 1, 2012.

The Medicaid regulations contain a requirement that Medicaid payments to institutional providers, including nursing facilities, in the aggregate, cannot exceed what Medicare would pay, in the aggregate, for the same care. This is known as the Upper Payment Limit (UPL). The Upper Payment Limit must be calculated yearly for each type of facility: private; state-government owned, and non-state government owned. Historically, the gap between the Medicaid payments and the Upper Payment Limit has been large enough, where this has not been an issue or something the Department needed to bring to your attention. However, the increases provided by the 2009 Legislature, have resulted in North Dakota approaching the Upper Payment Limit for the private facilities, and actually, for 2011, exceeding the Upper Payment Limit for the non-state government owned facilities. This proposed increase to the Medicaid payments for nursing facilities will impact the UPL and based on the UPL calculation for the 2011 nursing facility rates, we expect this proposal to exceed the UPL for non-state government owned facilities. If this bill and/or the cumulative impact of legislation passed during the 2011 Legislative Assembly results in the UPL being exceeded for one or more of the facility types, the Department will need to reduce the Medicaid rates to comply the Upper Payment Limit. Subsequently, because of equalized rates, the rates for the private pay would be reduced as well. If the Department were to reduce rates, we would need guidance from the Legislature about the use of non-federal funds to pay for the portion of costs associated with approved nursing facility rate increases, which exceed the UPL.

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