

**Testimony**  
**House Bill 1448 – Department of Human Services**  
**House Industry, Business and Labor Committee**  
**Representative George Keiser, Chairman**  
**February 2, 2011**

Chairman Keiser, members of the Industry Business and Labor Committee, I am Maggie Anderson, Director of the Medical Services Division for the Department of Human Services. I am here to provide information regarding House Bill 1448.

In the testimony provided last week, this committee heard that the three largest potential recoveries for a Recovery Audit Contractor (RAC) would be in the areas of (1) Pharmacy Benefit Managers, (2) Medicaid payments, and (3) Accounts Payable. My testimony will provide the committee with a brief overview of various state and federal efforts to provide oversight and recovery of North Dakota Medicaid program payments.

**Pharmacy Services**

The North Dakota Medicaid Pharmacy Services and the Medicaid Point-of-Sale (POS) system are operated by the Department, and there is no Pharmacy Benefit Manager involved in North Dakota Medicaid operations. The North Dakota Medicaid POS has excellent edits that protect patients from drug interactions and overdoses, as well as direct physicians and pharmacists towards more efficient prescribing and dispensing habits. Routine reports are run to determine if duplicate payments are made, and if any are found, the duplicate payment is recovered immediately.

## **Recovery Audit Contractor (RAC)**

According to Section 6411 of the Patient Protection and Affordable Care Act (ACA), each Medicaid agency is mandated to establish a contract with one or more Medicaid RACs for the purpose of indentifying underpayments and overpayments.

The ACA requires that RACs be paid contingency fees for overpayments recouped as well as for underpayments. The contingency payment will be made to the RAC prior to calculating the federal share of the overpayment owed to the Center's for Medicare and Medicaid Services (CMS).

The Department is preparing a Medicaid RAC Request for Proposal which we expect to issue this month. The projected implementation date of the North Dakota Medicaid RAC is August, 2011.

Medicare providers have been audited under Medicare RACs for several years.

## **Medicaid Integrity Contractor (MIC)**

Section 1936 of the Social Security Act requires CMS to contract with Medicaid Integrity Contractors (MIC) to carry out Medicaid Integrity goals. The goals include: reviewing providers to determine whether fraud, waste or abuse has occurred, indentify overpayments, audit provider claims and educate providers and administration about payment integrity and quality of care. A MIC varies in a number of ways from a RAC; one big difference is that they are contracted and paid by CMS. To date, there have been no MIC audits in North Dakota.

## **Payment Error Rate Measurement (PERM)**

The Improper Payments Information Act of 2002 requires federal agencies to annually review programs they oversee that are susceptible to significant erroneous payments, to estimate the amount of improper payments, to report those estimates to Congress, and to submit a report on actions the agency is taking to reduce erroneous expenditures. To implement the requirements of the Improper Payments Information Act, CMS developed the Payment Error Rate Measurement program. Under PERM, reviews are conducted every three years and the efforts focus on three areas: fee-for-service, managed care, and eligibility for both the Medicaid and CHIP programs. The results of these reviews are used to produce national program error rates as well as state-specific program error rates. For states reviewed under PERM in 2009, the overall national Medicaid estimated error rate was 8.98%; and the North Dakota Medicaid estimated error rate was 3.17%.

In Summary, once implemented, the RAC has an ongoing auditing cycle; PERM is conducted every three years; and MIC audits occur based on variance limits detected during the analysis of the data submitted to the CMS contractors. In addition, the Medical Services Division completes quarterly provider audits, based on utilization patterns noted by staff members. It is possible for Medicaid providers to be audited simultaneously under each of the review mechanisms noted in my testimony.

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