

**Testimony**  
**House Bill 1384 – Department of Human Services**  
**House Human Services Committee**  
**Representative Robin Weisz, Chairman**  
**January 29, 2013**

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 House Bill 1384, regarding the estimated cost increase, and the Medicaid Upper Payment Limit.

The estimated impact was calculated on nursing facilities and basic care facilities located west of Highway 83. While nursing facilities in Bismarck, Mandan, Jamestown, Fargo, Grand Forks, and other cities east of Highway 83 are not included in the fiscal impact, the bill does not restrict these facilities from including as an allowable cost the cost of a housing subsidy, or the subsidized cost of operating housing owned, or operating by a nursing facility, or basic care facility in their cost report.

If any of the facilities that are not included in the estimated impact presented today choose to provide a housing subsidy, or provide subsidized housing, there would be an additional impact on the Medicaid program, and private pay individuals.

The estimated impact to nursing facility expenditures in the Medicaid program for the changes proposed in House Bill 1384 would be \$14,585,436 of which \$7,292,718 is general funds.

The estimated impact to costs for private pay individuals is \$12,640,446. The estimates for nursing facilities are for a time period of 18 months as nursing facility rates would be affected beginning January 1, 2014.

The estimated impact to basic care facility expenditures in the Medicaid program for the changes proposed in House Bill 1384 would be \$2,972,045 of which \$1,962,687 is general funds. The estimate for basic care facilities is for 24 months as the rates would be affected beginning July 1, 2013.

The fiscal note contains \$125,603 of which \$65,100 are general funds for salary and other expenses of the additional FTE that would be required for the significant impact to the duties of the nursing facility, basic care rate setting, and to ensure compliance with federal and state regulations.

The federal 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 UPL must be calculated yearly for each type of facility: private, state-government owned, and non-state government owned.

If the subsidized cost of operating housing owned or operated by a nursing facility is included as an allowable cost in the nursing facility rate setting system as outlined in House Bill 1384, it will directly impact the UPL for all three types of nursing facilities because these costs are not allowable costs under Medicare reasonable cost principles.

If this bill and/or the cumulative impact of legislation passed during the 2013 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 with the UPL. Subsequently, because of equalized rates, the rates for private pay individuals would be reduced as well.

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