Testimony
Engrossed Senate Bill 2066 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
March 26, 2013

Chairman Weisz, members of the House Human Services Committee, I am Maggie Anderson, Director of the Medical Services Division for the Department of Human Services. I am here to provide support of Engrossed Senate Bill 2066, which was introduced at the request of the Department.

Current state law (N.D.C.C. 50-24.6-04.3.e) specifically prohibits the Department from utilizing a prior authorization process for antineoplastic agents (oncology/cancer medications). The Department has noted two areas that resulted in requesting the introduction of this bill.

1. Many oncologist offices submit prior authorization requests for the medication they administer as they do not wish to administer medications costing $10,000 or more without confirmation that they will be reimbursed. Requesting prior authorization is their standard business procedure for other insurance coverage.

   As there is no prior authorization allowed for oncology medication for North Dakota Medicaid, these requests cannot be routed through the prior authorization vendor who responds to 98 percent of requests within four hours, and 100 percent within one business day. The prior authorization vendor cannot be used for these requests because their contract is only to handle drugs that are prior authorized. Also, if the vendor was to be used, they would need guidelines for processing the requests (e.g. approval and

denial criteria), and since current law prohibits prior authorization of these agents, no criteria can be used.

Currently, requests to cover antineoplastics come in a general letter format (not on a prior authorization form) and are routed based on the content of the letter. (They may go to the out-of-state prior authorization team, the medical coders, or a member of the utilization review staff.) Depending upon the schedules of the staff, response times are not as predictable as the prior authorization vendor staff.

2. North Dakota Medicaid receives federal matching funds for Covered Outpatient Drugs as defined in the Social Security Act Section 1927. [42 U.S.C. 1396r-8]. Covered outpatient drugs do not include those used for a medical indication which is not a medically accepted indication. The term "medically accepted indication" means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the compendia described in subsection (g)(1)(B)(i). The compendia specifically includes the DRUGDEX Information System, which the Department utilizes. Without prior authorization of antineoplastic agents (oncology/cancer medications), the Department cannot ensure that the drugs are being used for medically accepted indications.

   Nationwide, Medicaid auditors, including Recovery Audit Contractors (RAC) and Payment Error Rate Measurement Contractors (PERM), are tasked with ensuring Medicaid programs are following state and

federal policies in the payment of services. This includes reviewing paid claims and the associated medical records to determine if medications are being used for medically accepted indications. If these audits determine that a medication is not being used for medically accepted indications, the reimbursement will be recouped from the provider.

Because of the current restriction on prior authorization of antineoplastic agents, the Department finds itself in a situation where we are unable to provide efficient, fast and direct answers to providers and we are unable to ensure claims paid by the Department will not be reversed through a recovery audit.

The Department is proposing a solution through this bill that would allow North Dakota Medicaid to implement an indication-based (or diagnosis-based) prior authorization, so all requests from physician offices can be processed in the same efficient manner, and payments will not be made outside of federal or state policies.

There is no anticipated fiscal impact from this proposed change since the prior authorization would be limited to ensuring that the medication is being used for the appropriate indications as outlined by the Food and Drug Administration or compendia (DRUGDEX Information System) allowed by the Centers for Medicare and Medicaid Services (CMS). The prior authorization would not try to steer utilization to another product due to cost.

On page 2, Lines 16-20, the Senate adopted amendments to make it clear that the Department will not prefer one antineoplastic agent over another, and the Department will approve all requests when the antineoplastic agent is being used in accordance with federal guidelines for coverage of outpatient drugs.

The Department requests your favorable consideration of Engrossed Senate Bill 2066 as it addresses the attention CMS has placed on program integrity and offers an efficient solution for the prior authorization requests already submitted by providers for these medications.

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