

**Testimony**  
**Engrossed House Bill 1012 – Department of Human Services**  
**Senate Appropriations**  
**Senator Holmberg, Chairman**  
**March 13, 2013**

Chairman Holmberg, members of the Senate Appropriations committee, I am Maggie Anderson, Director of Medical Services, for the Department of Human Services (Department). I am here today to provide you with an overview of the Long-Term Care Continuum budget.

**Programs**

The long-term care services included in this area of the budget are the Developmentally Disabled Community-Based Care grants; Nursing Facilities, Basic Care Facilities, and the Home and Community-Based Services Programs, which have the following funding sources: Service Payments for the Elderly and Disabled (SPED); Expanded SPED; the Medicaid Technology-Dependant Waiver; Personal Care; the Program for All-Inclusive Care of the Elderly (PACE); Targeted Case Management; Children’s Medically Fragile Waiver, Children’s Hospice Waiver, and the Medicaid Home and Community-Based Services Waiver.

The Long-Term Care Continuum encompasses a wide range of medical and support services for individuals who lack some capacity for self-care, and are expected to need care for an extended period of time.

I will provide an overview of the Long-Term Care Continuum budget, with the exception of the Developmental Disabilities grants, which will be provided by Tina Bay, Director of the Developmental Disabilities Division.

## **Program Trends**

### Nursing Facilities

As of September 30, 2012, the percentage of Medicaid-eligible individuals in nursing facilities was 52 percent. [Attachment A](#) shows the Licensed and Occupied Nursing Facility Beds since October 2010, and [Attachment B](#) shows the Medicaid occupied beds. Based on the September 30, 2012 occupancy reports, 35 facilities were below 90 percent occupancy. The average occupancy for these 35 facilities is 81 percent. (Two years ago when the Department presented budget testimony, there were 24 facilities below 90 percent occupancy.)

### Basic Care

The number of basic care beds available and utilized by individuals who are Medicaid eligible has increased during the current biennium. There has been considerable change in the basic care area with several facilities closing, several new facilities opening or planning development or expansion projects, and others increasing or decreasing their licensed capacity. The Department has accounted for these changes in the development of the 2013-2015 budget estimate.

### Home and Community-Based Services

Home and Community-Based Services (HCBS) continue to provide an array of services determined to be essential and appropriate to sustain individuals in their homes and in their communities, and to delay or prevent institutional care. HCBS staff work closely with county case managers and providers to ensure clients have the services they need in a timely and efficient manner. Ongoing collaboration occurs between HCBS staff and the Centers for Medicare and Medicaid Services (CMS) to identify changes in federal requirements and to continually enhance

quality measures to assure clients and families are receiving the appropriate services to meet their needs.

Enrollment into HCBS has remained consistent with equal numbers of people leaving as coming into the program. The number one reason for dis-enrolling from services has been death of the individual, which indicates that home and community-based services are able to assist individuals and families longer within their homes when independent skills begin to fail.

### **Major Program Changes**

2011 House Bill 1325 allowed a Nursing Home bed layaway. According to information from the Health Department, as of July 1, 2012, nine nursing homes had utilized this provision by de-licensing 107 beds. One reason that facilities de-license beds is to ensure they are over the 90% occupancy limit, which positively impacts their nursing facility rates.

2011 Senate Bill 2077 as enacted required individuals applying for assistance under the Basic Care Assistance Program to apply for, and if eligible, to receive benefits under the Medicaid program. The bill also added a new chapter to Title 50 of the North Dakota Century Code relating to Expanded Service Payments for the Elderly and Disabled (ExSPED). Section 8 of 2013 House Bill 1012 requests replacing "and" with "or" which will correct an oversight made in this bill.

During the interim, the Department launched an online billing tutorial to assist qualified service providers (QSPs) with accurate billing practices. By using the online system, QSPs experience fewer delays in payments caused by common billing errors.

Currently, the HCBS staff is conducting statewide education sessions for QSPs which are intended to provide information to currently participating QSPs and hopefully recruit additional individuals to become QSPs.

The HCBS audit processes have been enhanced to maximize the use of technology and improve workflow. This has allowed the Division to increase the number of audits conducted each year. In addition to annual audits of case management service in each county, in 2011, 85 QSP audits were completed, and for 2012, 165 QSP audits were completed.

The Medical Services Division is also updating the background check process to capture necessary information pertaining to new providers who are from out of state.

**Medically Fragile Waiver:**

The Children with Medically Fragile Needs waiver is seeing a slow increase in families accessing the services. Currently, there are seven children receiving services through the waiver, with another soon to transition from the Early Intervention program. Since the beginning of the waiver in 2008, fourteen families have been assisted with this waiver.

**Children's Hospice Waiver:**

Since the beginning of the waiver in 2010, two families have been assisted with maintaining their terminally-ill child within their home until the end of life. This waiver helps North Dakota families cope with the additional financial burden of having a child with a terminal illness and encourages families to maintain their child in the home.

## **Money Follows the Person Demonstration Grant**

The federal government awarded the Department a Money Follows the Person (MFP) grant in 2007. The MFP Grant is designed to assist states with increasing the use of home and community-based services to meet the long-term service needs for Medicaid-eligible individuals. Grantees are expected to assure individuals receive support and services in settings of their choice and to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services.

MFP grant funds help eligible individuals who are elderly or have physical, intellectual or other disabilities and who live in nursing homes, the Developmental Center, or other institutions transition to community settings.

A MFP Stakeholders Committee was formed in 2007 to assist in development and implementation of North Dakota's MFP grant program. The committee meets quarterly and is composed of consumers, provider agencies, advocacy organizations, and staff of the Department. One primary purpose of the committee is to assist the state in addressing barriers to the provision of home and community-based services for the elderly and individuals with disabilities.

The MFP demonstration effort has been a tremendous success. To date, the grant has assisted 125 individuals in transitioning from institutional care. The demonstration effort is also intended to identify areas of the system where changes could be made that would support individuals receiving the necessary supports in a home or community-based setting. This effort allows the Department to test a variety of services to facilitate transitions and support the needs of those transitioned and will help

determine if these services are important for eventual implementation into the HCBS area. Some of these activities include:

### **MFP Housing Initiative**

The North Dakota Center for Persons with Disabilities at Minot State University is under contract to implement the MFP Housing Initiative which includes identifying housing needs, developing a searchable housing registry, working with state housing agencies on housing issues, and assisting MFP clients with housing searches.

### **Nurse Quality Program**

St. Alexius Home Health and Hospice is under contract to provide an on-site health assessment prior to and after transition to review health-related needs and make recommendations on support services and follow-up with service delivery.

### **North Dakota State Hospital (NDSH) Transition Assistance**

MFP Rebalancing funds have been used to assist with one-time transition costs for consumers discharging from the NDSH to a community setting. The assistance provides up to \$2,500 per person to pay for items such as deposits, furniture, assistive technology, household supplies etc. Fifteen individuals have been assisted through November 2012.

### **Transition Adjustment Support**

MFP has developed a new demonstration service to provide up to 120 days of educational supervision to individuals returning to live in the community. To date, this service has been used by seven individuals.

### **Direct Service Workforce Development Coordinator**

CMS has approved MFP administrative money to fund a temporary position to assist with the development of all types of direct service workers. Having an adequate direct work force has been identified as one of the most important components of balancing and institutional diversion.

## A look at MFP Transitions:

Grant Year	Older Adult	Individuals with a physical disability	Individuals with ID/DD	Children	TOTAL
2007	0	0	0	0	0
2008	1	1	3	0	5
2009	4	7	4	0	15
2010	4	6	16	0	26
2011	5	8	19	0	32
2012	13	21	12	1	47
<b>Totals</b>	<b>27</b>	<b>43</b>	<b>54</b>	<b>1</b>	<b>125</b>

Please refer to [Attachment C](#), which shows the results of the MFP Quality of Life Survey that shows responses to several questions posed to individuals who have transitioned at zero, eleven and twenty-four months, post-transition.

## Overview of Budget Changes

Description	2011 - 2013 Budget	Increase / Decrease	2013 - 2015 Executive Budget	House Changes	To Senate
Nursing Homes	459,836,020	41,458,803	501,294,823	(7,000,000)	494,294,823
Basic Care	25,972,395	10,307,932	36,280,327	(193,725)	36,086,602
Personal Care Community	29,149,905	(1,282,147)	27,867,758		27,867,758
SPED	13,782,988	750,173	14,533,161		14,533,161
Ex-Sped	942,224	384,721	1,326,945	(145,000)	1,181,945
Targeted Case Management	1,564,749	171,147	1,735,896		1,735,896
Home & Community Based Services	9,538,386	3,394,692	12,933,078	(1,000,000)	11,933,078
Children's Medically Fragile Waiver	318,780	(177,492)	141,288		141,288
Tech Dependent Waiver	500,136	(105,696)	394,440		394,440
PACE	9,370,980	941,401	10,312,381		10,312,381
Children's Hospice Waiver	974,430	(852,633)	121,797		121,797
Total	551,950,993	54,990,901	606,941,894	(8,338,725)	598,603,169
General Funds	253,988,879	60,474,106	314,462,985	(4,885,511)	309,577,474
Federal Funds	293,940,268	(4,568,385)	289,371,883	(4,000,000)	285,371,883
Other Funds	4,021,846	(914,820)	3,107,026	546,786	3,653,812
Total	551,950,993	54,990,901	606,941,894	(8,338,725)	598,603,169
FTE	-	-	-	-	-

### Nursing Homes

The Executive Budget was based on Medicaid nursing home days paid. Comparing the 2011-2013 Executive Budget Request, the 2013-2015 Executive Budget Request, and the 2013-2015 Budget to the Senate, the monthly average days are projected to be:

2011-2013 Executive Request	2013-2015 Executive Request	2013-2015 to the Senate	
97,832	92,199	90,824	Nursing Facility
449	426	426	Dakota Alpha
975	1,460	1,460	Geropsych Unit
1,310	1,186	1,186	Swing Bed
2,650	2,494	2,494	Hospice Room and Board
1,888	<u>1,187</u>	1,187	Out of State
<b>105,104</b>	<b><u>98,952</u></b>	<b>97,577</b>	Total

### Upper Payment Limit

Language regarding the Upper Payment Limit is included in Section 6 of House Bill 1012. 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 UPL must be calculated yearly for each type of facility: private, state-government owned, and non-state government owned.

**House Changes:**

Removes funding to increase the personal needs allowance from \$85 to \$100 per month for individuals in basic care facilities. Total funding removed was \$193,725 of which 100 percent is general fund.

Reduces long-term care case load projections for a total of \$8,145,000, of which \$4,145,000 is general fund. The reductions are as follows:

Long- Term Care Area	House Reduction
Nursing Homes	\$7,000,000
HCBS Waiver	\$1,000,000
Expanded SPED	\$145,000
<b>TOTAL</b>	<b>\$8,145,000</b>

Changes the funding source for \$546,786 from general fund to the Health Care Trust Fund. During the 2011 Legislative Session, the state match for House Bill 1325 was designated to be from the Health Care Trust Fund. Language was also included in 2011 Senate Bill 2012 that the Governor could not designate the use of Health Care Trust funds when preparing the Executive Budget request. The House changes shift the \$546,786 from general fund to the Health Care Trust Fund for the 2013-2015 biennium.

**Section 9** was added which establishes a methodology for increasing the Personal Needs Allowance each biennium, starting with the 2015-2017

biennium. Within this area of the budget, the Personal Needs Allowance is afforded to individuals in nursing homes and basic care facilities.

**Section 10** was also added and would authorize \$425,000 from the Health Care Trust Fund to provide a grant to an assisted living center that accepts low-income tenants for an expansion project.

[Attachment D](#) shows historical information on expenditures and average daily nursing facility rates and has been updated with the changes related to the House amendments.

[Attachment E](#) shows the changes in the Long-Term Care Continuum Budget from 2011-2013 Appropriation to the 2013-2015 Budget to the House, and the 2013-2015 Budget to the Senate.

[Attachment F](#) is a cost and caseload comparison of the 2011-2013 Appropriation to the 2013-2015 Budget to the House, and the 2013-2015 Budget to the Senate.

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