

**Testimony**  
**House Bill 1119 – Department of Human Services**  
**House Human Services Committee**  
**Representative Robin Weisz, Chairman**  
**January 10, 2017**

Chairman Weisz, and members of the House Human Services Committee, I am Nancy Nikolas Maier, Director of the Aging Services Division for the Department of Human Services (Department). I am here today to support House Bill 1119, which was introduced at the request of the Department.

Through House Bill 1119, the Department is requesting to amend section 50-06.2-10 and 50-24.7-02 of the North Dakota Century Code to obtain authority for the collection of overpayments for the Service Payments for the Elderly and Disabled (SPED) program and the Expanded Service Payments for the Elderly and Disabled (Ex-SPED) program when a recipient or guardian of the recipient provides inaccurate information for the purpose of obtaining benefits.

In order to qualify for SPED or Ex-SPED services, an individual or their legal representative must provide sufficient information to determine their functional and financial eligibility for the service. If an individual provides inaccurate or false information about finances, health status, or ability to complete everyday tasks, the Department currently lacks the authority to recoup the funds that were paid for the services received when the individual was not eligible.

This authority exists for home and community based services (HCBS) that are Medicaid-funded, but does not exist for SPED and Ex-SPED, which are

funded through State general fund. House Bill 1119 proposes to provide for a consistent recipient overpayment collection policy for all HCBS programs.

The requested changes are as follows:

Section 1 of this Bill adds a subsection 3 to sections 50-06.2-10 to provide for the recoupment of any overpayment that results from an eligible individual's or guardian of the eligible individual's concealment, misrepresentation, fraud, or from assistance granted pending a decision on an appeal that was adverse to the recipient. It further states that an overpayment may be collected from any person who benefitted from, or who was responsible for the overpayment and that no statute of limitations or similar statute prevents the Department from recouping the overpayment.

Section 2 of this Bill amends subsections 1, 2, and 3 of section 50-24.7-02 to clarify language and does not modify the intent of these subsections. Subsection 4 of section 50-24.7-02 was added to provide for the recoupment of any overpayment that results from an eligible individual's or guardian of the eligible individual's concealment, misrepresentation, fraud, or from assistance granted pending a decision on an appeal that was adverse to the recipient. It further states that an overpayment may be collected from any person who benefitted from, or who was responsible for the overpayment and that no statute of limitations or similar statute prevents the Department from recouping the overpayment.

Attached to my testimony is a [proposed amendment](#) to House Bill 1119. The proposed amendment replaces "guardian of the eligible individual's" with "the eligible individual's legal representative" in sections 50-06.2-10, page 1 lines 18 and 19, and 50-24.7-02, page 2, lines 24 and 25, to ensure

guardians, power of attorneys, and other individuals with legal authority are included.

This concludes my testimony. I will be happy to address any questions you may have.