

**TESTIMONY BEFORE THE BUDGET COMMITTEE ON HEALTH CARE  
JUNE 12, 2006**

Chairman Krauter, members of the committee, I am Maggie Anderson, Director of Medical Services for the Department of Human Services. I appear before you to provide information regarding the impact of additional federal health care facility regulations on the Department of Human Services and the Medicaid Budget.

**KNOWN CHANGES**

**Psychiatric Residential Treatment Facilities (PRTFs) Formerly Residential Treatment Centers (RTCs)**

With the changes required by the Centers for Medicare and Medicaid Services (CMS), effective July 1, 2006, the PRTFs will be subject to the requirement to have surveys conducted by the North Dakota Department of Health. Based on the facilities that currently operate as RTCs, we expect this to increase the workload of the Health Department by 6 reviews. Since this has not been implemented and we have no experience with the number of staff or time needed for a review of a PRTF or the requirements for the frequency of the reviews, we do not know the exact cost for this additional requirement. We expect the first of these surveys to be conducted after July 1, 2006 with recertification surveys on a periodic basis thereafter. The frequency of recertification is unknown at this time.

**EXPECTED CHANGES**

**Certified Nurse Assistant (CNA) Registry**

Currently five states are participating in a pilot project related to conducting criminal background checks on CNAs. If this pilot results in a mandate from CMS, we could expect an initial investment to conduct background checks on all current CNAs. In subsequent years, the background checks would only be required of new individuals seeking placement on the registry.

Other considerations for this potential new requirement would be the staff necessary in the Health Department to manage the registry and the increased need of resources from the Attorney General's office to complete the criminal background checks.

The costs for the background checks and the staff to manage the registry would be passed along to the Department of Human Services, through the fees we pay the Health Department for survey expenses.

With the heightened sense of security with all other services and programs, it is reasonable to expect this provision to be implemented within the next biennium.

#### **Upgrade to Minimum Data Set (MDS) Version 3.0**

The MDS, developed by CMS, is a federally mandated tool used to clinically assess nursing facility residents. Medical Services uses the MDS to establish daily rates for the nursing facility payment system.

We expect the newest version of the MDS to be released within the next two years. CMS initially had said it would be released in December 2004. It will be required that we implement the new version, based on a date to be set by CMS. When the new version is released, there will be expenses incurred by the Department of Health for staff training, as well as training and coordination with long-term care providers. Again, these expenses are passed along to the Department of Human Services through the survey and certification rate.

In addition, the implementation of a new MDS version will be problematic, considering the status of our current Medicaid Management Information System (MMIS). We expect considerable programming changes and, as you know, these types of significant changes, especially to nursing facility payments, have the potential to impact accuracy and timeliness of payments.

## **POTENTIAL CHANGES**

### **Life Safety Code Changes**

It is our understanding that CMS is considering the adoption of the 2006 Life Safety Code to replace the currently adopted 2000 edition. It is unknown when they would do so and because we have no detailed information on the implications of this, we cannot estimate a cost. We do, however, know the costs would increase for the following: (1) the Department of Health would need to train staff and inform providers, and (2) the nursing facilities would need to use additional capital to make changes to meet the requirements of the new code. The second area is the one of most concern, as this would increase the rates paid to the nursing facilities by the Department of Human Services and private pay residents.

### **Quality Improvement Survey**

A change to the Quality Improvement Survey (QIS) process may occur within the next 2 years. This change would essentially change the nursing home survey process into an objective process by use of tablet computers. The sample selection and survey focus would be computer driven. Currently five states are involved in a pilot process to test the effectiveness of system-wide implementation. If implemented, significant staff training costs can be expected,

as the entire Health Facilities Division (32 people) would need to be trained. In addition, the new process would require the use of mobile technology and devices, which will add additional implementation and sustainability costs. This change would have minimal impact on providers.

### **Developmental Center Transition**

2005 House Bill 1012 provided direction and an appropriation to the Department of Human Services for the transition of individuals out of the Developmental Center and into the community. If any of these transition efforts result in an increase in the number of ICF/MR locations, there would be an impact on the number of surveys conducted by the Health Department. The decisions regarding the transition efforts will likely be made during the 2007 Legislative Session.

### **Sex Offenders in Long Term Care Facilities**

As known Sex Offenders experience a need for skilled nursing facility care, a potential problem exists, related to survey and certification requirements. CMS will not certify a facility that does not allow every resident to exercise their full rights. For example, if a known Sex Offender was confined to their room if children were present in the facility, this would be a violation of the Sex Offender's rights, and the facility would be subject to the loss of their certification. This would impact the dollars received for certification reviews as well as the federal Medicaid funds available to pay the daily nursing facility cost of care. In other words, the facilities would not be certified and would not be eligible for Medicare or Medicaid payments.

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