

**Testimony – Department of Human Services  
Health Services Committee  
Senator Lee, Chairman  
September 12, 2018**

Chairman Lee, members of the Health Services Committee, I am Brendan Joyce, Administrator of Pharmacy Services with the Medical Services Division for the Department of Human Services (DHS). I am here today at the committee's request to have DHS provide information regarding metabolic services and other similar conditions not covered by the special foods program administered by the State Department of Health.

I'll first give a little background. Nutritional supplementation coverage through Medicaid is considered optional by the Centers for Medicare and Medicaid Services (CMS). ND Medicaid covers common products such as those covered by Medicare, as Medicaid must pay secondary to Medicare for individuals who are dually eligible for both Medicare and Medicaid. These products include Ensure, Boost, and other similar products. ND Medicaid covers nutritionally complete formula (e.g. Pediasure) if the product is their sole source (90% or greater) of nutrition. Coverage excludes any inherited disease of metabolism. Medicare only covers these products if it is delivered via durable medical equipment such as with gravity feeding or a pump being used for someone who is tube fed.

ND Medicaid does not cover infant formula as the Women, Infants, and Children's (WIC) program exists to assist in that area. ND Medicaid has not expanded coverage for any products beyond what is mentioned above.

There have been a variety of medical food products where the manufacturer has inappropriately given their products National Drug

Codes (NDCs) and then entered their product into the Drug Data Repository at CMS in attempts to get their products covered by Medicaid programs throughout the nation. Many of these companies have succeeded at times in their attempts, which has caused some confusion over what is covered by Medicaid. In short, the Medicaid pharmacy program covers drugs that are approved under sections 505 or 507 of the Federal Food, Drug, and Cosmetic Act. Metabolic foods do not fall under these sections.

As there have been interim discussions about Medicaid managed care, the Department is not looking at expanding services in general and has no current plans to expand Medicaid coverage for metabolic services and other similar conditions not covered by the special foods program administered by the State Department of Health.

I would be happy to answer any questions.