

Testimony
Engrossed House Bill 1012 – Department of Human Services
Senate Appropriations
Senator Holmberg, Chairman
March 14, 2017

Chairman Holmberg, and members of the Senate Appropriations, I am Tina Bay, Director of the Developmental Disabilities Division of the Department of Human Services (Department). I am here today to provide you an overview of the programs and services that make up the budget request for the Developmental Disabilities (DD) Division.

Programs

The DD Division oversees the delivery of services for eligible individuals with an intellectual or developmental disability, and children birth to age three with developmental delays. Services include residential and day habilitation, employment, family support, self-directed, corporate guardianship, infant development, and right track.

DD Division staff are responsible for the following:

- **Administration:** budgeting, licensing, training, quality assurance, policy development, contract management, and technical assistance; and
- **Regulation:** development and monitoring of the Medicaid 1915(c) Traditional Home and Community Based Waiver, interpret and ensure compliance with state and federal rules, and administrative code updates.

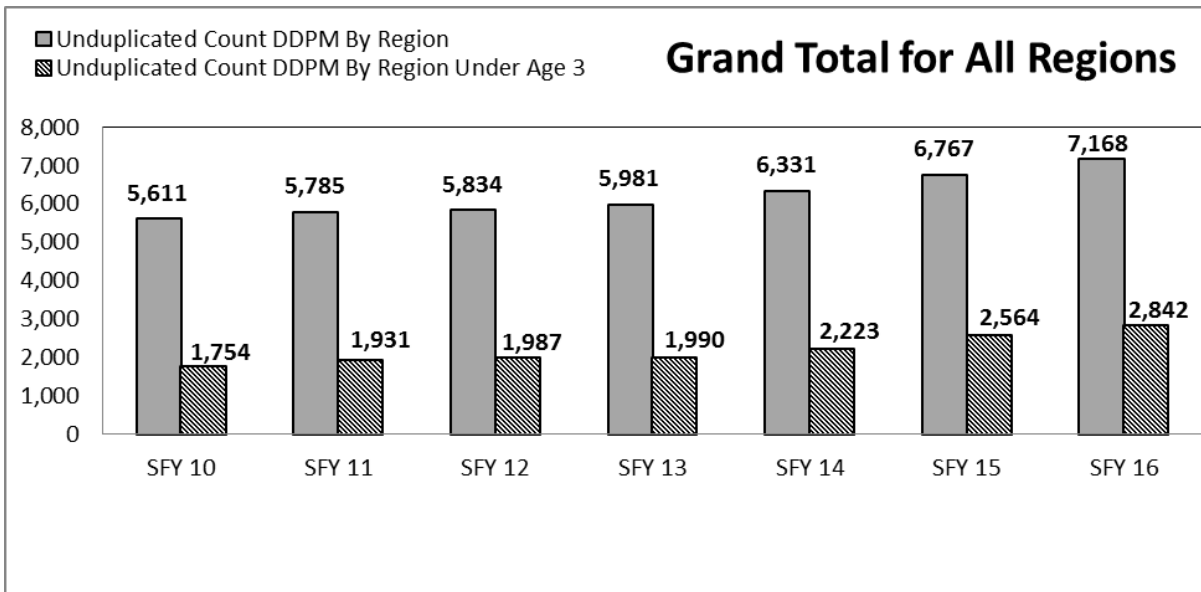
Division staff interact regularly with developmental disability staff at the regional human service centers, Life Skills and Transition Center, with

federal agency representatives, school system personnel, university representatives, consumer advocates, families, and a variety of public and private entities that play a vital role in the delivery system and monitoring of services.

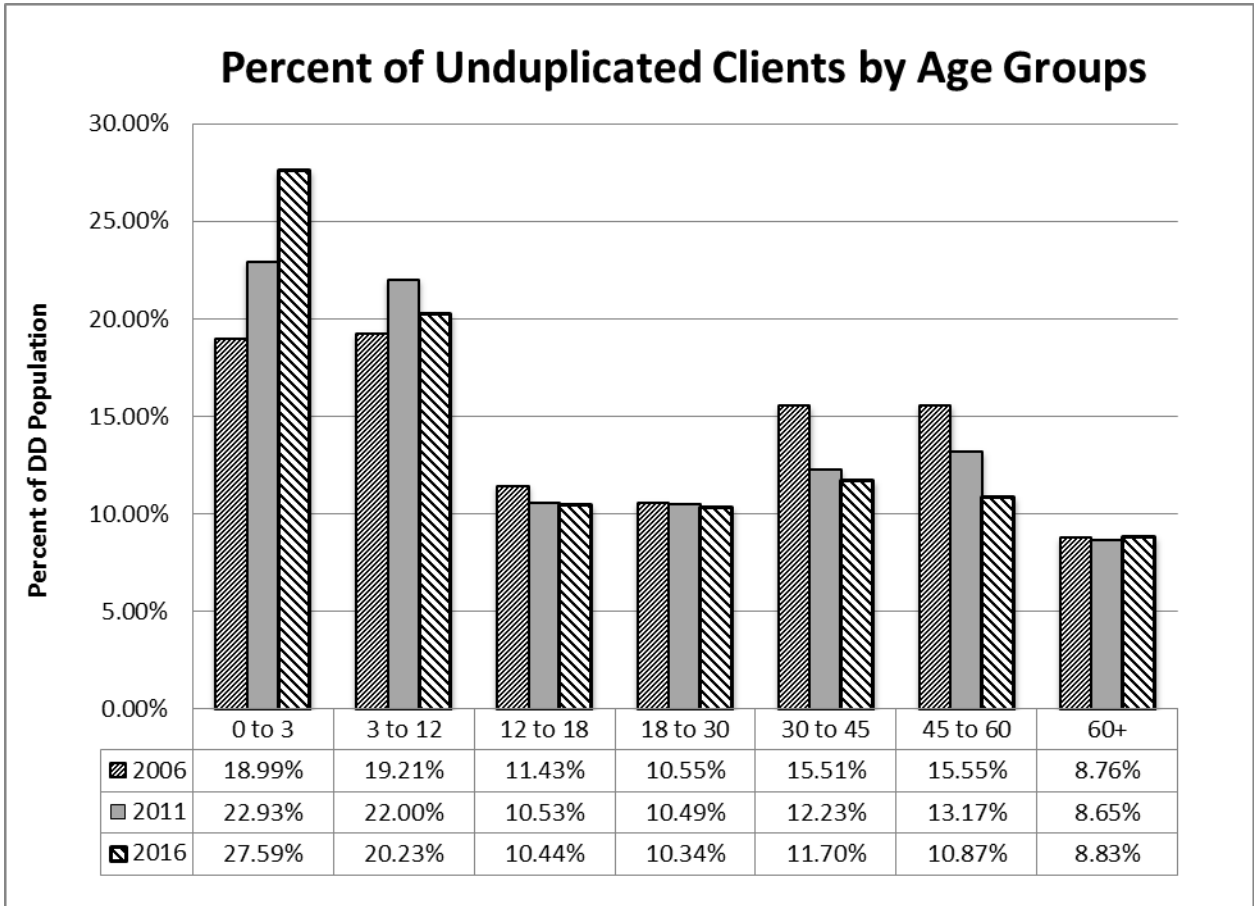
Program Trends/Program Changes

Caseload Growth and Utilization:

The DD system continues to see an increase in the number of clients served. The following chart highlights the total unduplicated number of clients that received DD program management over a seven year period. This represents a 27.7% increase from SFY 10 to SFY 16.



This next chart provides a more detailed look at those receiving DD program management by identifying the percent of unduplicated clients by identified age groups.



In addition to serving more clients, the data shows an increase in the utilization of services, including the number of services provided (units) and staffing levels. Client acuity drives the cost of services and we have seen a continued increase in the number of clients who need enhanced staffing levels to safely and successfully live in the community.

The following chart highlights selected DD services, the adjusted average cost by inflation, actual average cost, and average number of clients served over the past five years.

	Adjusted Avg. Cost/Unit by Inflation*	Actual Avg. Cost/Unit	Avg. Number of Clients/Month
<i>Residential (Individualized Supported Living Arrangement)</i>			
SFY 11	\$141.08	\$141.08	737
SFY 16	\$174.28	\$198.08	862
% Inc/Dec	+23.5%	+40.4%	+17.0%
<i>Day Supports**</i>			
SFY 11	\$15.89	\$15.89	1,069
SFY 16	\$19.63	\$23.39	1,221
% Inc/Dec	+23.5%	+47.2%	+14.2%
<i>Intermediate Care Facility - Adult**</i>			
SFY 11	\$322.18	\$322.18	232
SFY 16	\$399.16	\$490.99	234
% Inc/Dec	+23.9%	+52.4%	0%
<i>Family Support Services (In Home Support)</i>			
SFY 11	\$1,443.14	\$1,443.14	557
SFY 16	\$1,745.30	\$2,100.10	703
% Inc/Dec	+20.9%	+45.5%	+26.2%

*Legislative increases include SFY 2012 of 3%, SFY 2013 of 3%, SFY 2014 of \$1 wage pass through plus 3%, SFY 2015 of 3% and SFY 2016 of 3%

**In addition to acuity, building costs and supplies will have an impact on the cost per unit.

DD Transitions

The DD Division works closely with the Life Skills and Transition Center (LSTC), regional staff, providers, and other stakeholders to transition clients from the LSTC to community services. This biennium, the Department repurposed an FTE from the LSTC to the DD Division. This position will work closely with providers and other stakeholders to create new settings in the community for clients currently residing at the LSTC and will support the Department's continued efforts to comply with the Olmstead Act.

In addition to the repurposed FTE, the DD Division's budget includes funding for four crisis units. These units will be available to clients that are in need of a temporary placement away from their current living situation. Having these units available in the community should divert some clients from needing to be admitted at the LSTC.

DD Eligibility (Specialized Services)

The Department has requested technical assistance to study current waiver eligibility and service criteria to determine if there are gaps in eligibility or services. The Department will use the information to examine waiver criteria and services to determine if certain individuals are failing waiver criteria or to determine if certain waiver recipients need additional services. The result may be a change to an existing waiver or a new waiver. It is expected that criteria changes or additional services would result in increased costs.

DD Payment System

The DD Division has been working with consultants, developmental disability service providers, the North Dakota Association of Community Providers, and other stakeholders since State lawmakers enacted Senate Bill 2043 in 2011 directing the Department to develop, with providers, a new payment system. The project involves converting the State's current retrospective, cost-based, rate system to a prospective fee-for-service system, utilizing the Supports Intensity Scale (SIS) assessment.

The DD Rate Setting Steering Committee, which includes providers and their association, met 48 times to help the Department make decisions throughout the project.

The Department expected to implement the new payment system on January 1, 2017; however, on September 22, 2016 a decision was made to postpone implementation. Typically a newly-developed rate system does not provide the exact same reimbursement to providers as the system it replaces, and some providers may receive more reimbursement while others may see less. It has been difficult for the Department to evaluate the number of clients who may be impacted if their provider chooses to provide less support or to discharge them. Because the Department did not want to impact the services and supports for individuals, the Department decided to postpone implementation.

Home and Community-Based Settings Rule

In March 2014, a new federal Centers for Medicare and Medicaid Services (CMS) rule established requirements for the qualities of settings that are

eligible for reimbursement for Medicaid Home and Community-Based Services (HCBS) provided under 1915(c) Medicaid waivers. Department staff have completed a review of current services, conducted site visits, and are currently working with CMS, consumers, and providers to assure compliance with this new rule. The Department received initial approval of the statewide plan to comply with this rule on November 1, 2016.

In 2017, the Department will continue to work with CMS to obtain final approval of the statewide plan. All settings must be fully compliant by March 2019. To achieve final approval, the Department will be submitting an evidence package to CMS to request additional heightened scrutiny of new settings that are located on the grounds of a state institution. Policy revisions, changes to administrative rules, changes to century code and a new process for licensing will also be necessary.

In addition to the initial activities required to obtain final approval, the Department will be responsible for the following activities to ensure ongoing compliance with the new regulations:

- Monitor new and existing settings;
- Provide oversight to ensure person-centered service plans are compliant;
- Track and validate responses to site visits, policy changes and compliance activities; and
- Report progress to CMS.

Overview of Budget Changes

Description	2015-2017 Budget	Increase/ (Decrease)	2017-2019 Executive Budget	House Changes	2017-2019 Budget To Senate
Salary and Wages	1,814,562	520,813	2,335,375	(227,183)	2,108,192
Operating	8,438,080	(433,469)	8,004,611	47,840	8,052,451
Equipment over \$5,000	10,000	0	10,000	0	10,000
Grants	467,528	81,000	548,528	0	548,528
DD Grants	558,245,809	52,658,652	610,904,461	(15,891,287)	595,013,174
Total	568,975,979	52,826,996	621,802,975	(16,070,630)	605,732,345
General Fund	280,080,844	26,571,552	306,652,396	(8,140,475)	298,511,921
Federal Funds	288,895,135	26,255,444	315,150,579	(7,930,155)	307,220,424
Total	568,975,979	52,826,996	621,802,975	(16,070,630)	605,732,345
Full Time Equivalent (FTE)	10.0	2.0	12.0	(1.0)	11.0

Budget Changes from Current Budget to the Executive Budget:

The Salary and Wages line item increased by \$520,813 and is mainly attributed to the following:

- \$40,889 in total funds, of which \$20,157 is general fund, needed to fund the Governor's compensation package for State employees.
- \$30,689 in total funds, of which \$16,546 is general fund, needed to sustain the employee increases approved by the last Legislative Assembly.
- \$225,089 in total funds, of which \$111,059 is general fund, for the transfer of an FTE to actively work with individuals transitioning from the LSTC and to assist in efforts to help with community supports/options to reduce admissions to LSTC.
- \$190,296 in total funds, of which \$93,890 is general fund, was included in the Executive Budget request for a program administrator to manage the Specialized Services to Individuals with Developmental Disabilities (1915c Waiver).

The Operating line item decreased by \$433,469 (5.1%) and the majority of the changes can be attributed to the following:

- Decrease of \$345,249 in Operating Fees and Services. The decrease mainly consists of the following:
 - \$199,260 increase in the fiscal agent contract for self-directed services due to increase in utilization;
 - \$84,822 increase for 20 additional wards for the corporate guardianship program;
 - \$86,400 increase for crisis units that should divert some clients from placement at the LSTC;
 - \$400,000 decrease in Experienced Parent contracts in the Part C program to make these funds available for direct client services through Developmental Disabilities grants; and
 - \$264,958 decrease in contracts for assessments for the Developmental Disabilities payment system.
- Decrease of \$46,554 in Travel due to the Department-wide process used to develop the Department's savings plan.
- Decrease of \$46,950 in Supply/Material - Professional for the Part C program to make these funds available for direct client services through Developmental Disabilities grants.

The Grants line item increased by \$81,000 (17.3%) for additional follow-up investigations completed by North Dakota Protection and Advocacy Project, all of which is federal dollars.

The Developmental Disabilities Grants line item increased by \$52,658,652 (9.4%) and can be attributed to the following:

- An increase to the existing waiver, or potentially a new waiver based on a study being conducted of the current waiver eligibility

and service criteria to determine if there are gaps in eligibility or services;

- A 1% provider inflationary increase the second year of the biennium;
- 168 additional high school graduates and new placements expected to need services during the biennium;
- 24 expected transitions from the Life Skills and Transition Center to the community;
- An increase of 160 consumers for family support services;
- An increase of nine children per month (216 for the biennium) for infant development services; and
- An increase in 90 consumers for self-directed services.

The general fund request increased by \$26,571,552 with \$26,177,007 or 99% of the increase is related to the Developmental Disabilities Grants. The remaining \$394,545 or 1% is related to salary, operating and grants changes as described above.

The federal funds request increased by \$26,255,444 with the majority of the increase related to the Developmental Disabilities Grants.

House Changes From Executive Budget:

- \$27,480 decrease in Salary and Wages, of which \$13,559 is general fund due to the House Amendments that removed funding for the anticipated retirement of two FTE in this area.
- \$9,407 decrease in Salary and Wages, of which \$4,605 is general fund due to the elimination of the 1% salary increase that had been proposed for the second year of the biennium.

- \$20,624 decrease in Operating expenses, will result in an overall operating expense decrease of approximately \$37,842 when federal matching funds are considered. This reduction will result in a decrease in travel, which is a necessary component of the monitoring and training of DD licensed providers and regional staff to ensure compliance with federal and state requirements and to ensure the health and welfare of individuals served. A decrease in provider contracts will also be necessary as the DD Division will not be able to eliminate enough from the travel area to accomplish this reduction. Current contracts in this area include funding for the fiscal agent, assessments, accreditation, corporate guardianship, section 11 services and crisis units. The Department will review these contracts and will make reductions in areas that will least impact client's health and safety needs.
- \$16,644 decrease in Operating expenses, which is all general fund due to the elimination of the 1% inflationary increase for providers that had been proposed for the second year of the biennium.
- \$100,000 increase in Operating expenses, which is all general fund due to the partial restoration of funding for the Experienced Parent program. The Experienced Parent program provides informational and emotional support to families who are potentially eligible and/or currently enrolled in Early Intervention. Currently this program is funded with federal Part C funds. Due to the increase in utilization of the required direct services, funding for the experienced parent program with federal Part C funds was not part of the Executive request. In the current biennium, the Department has contracts of \$359,975 with providers for this program.
- \$3,055,510 decrease in DD Grants, of which \$1,510,897 is general fund due to the elimination of the 1% inflationary increase for

providers that had been proposed for the second year of the biennium.

- \$317,688 decrease in DD Grants, which is all general fund due to the elimination of the Family Subsidy program. This program provides financial reimbursement, such as transportation or special equipment, to families of individuals that are not eligible for Medicaid.
- \$12,218,089 decrease in DD Grants, of which \$6,109,044 is general fund due to the 2% reduction in DD grants. This reduction, in addition to the elimination of the 1% inflationary increase will impact the ability of DD providers to recruit and retain qualified staff and will impact their ability to provide services to individuals with significant needs. If DD providers are unable to meet an individual's needs, admissions to the Life Skills and Transition Center will increase.
- \$505,188 decrease in Salary and Wages, Operating and Grants, of which \$247,414 is general fund due to the House Amendments that removed one FTE and partial funding for the 1915c Waiver for specialized services for individuals with Developmental Disabilities. The remaining funding of \$200,000 for this waiver will not be enough to cover the expected need for 18 months of services and the Department does not have the adequate staff resources to do the necessary work to secure a new waiver or add specialized services to existing waivers.

[Attachment A](#) provides a walk-through of the Developmental Disabilities Grants from the 2015-2017 appropriation to the 2017-2019 Executive Budget to the House and to the Senate.

This concludes my testimony on the 2017-2019 budget request for the Developmental Disabilities Division. I would be happy to answer any questions that you may have.