

Testimony
Engrossed House Bill 1099 Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman

March 6, 2019

Chairman Lee, and members of the Senate Human Services Committee, I am Nancy Nikolas Maier, Director of the Aging Services Division with the Department of Human Services (Department). I am here today in support of Engrossed House Bill 1099, which was introduced at the request of the Department.

Engrossed House Bill 1099 is being introduced to allow for the implementation of residential habilitation and community support services in a residential setting or private residence, under the Medicaid Home and Community Based Services 1915(c) waiver, which serves older adults and individuals with physical disabilities. Changes in State law governing the delegation of routine medications and the definition of adult foster care are necessary to fully implement all aspects of these services.

During this session, the Department is requesting several incremental investments in long term service and supports specifically in Home and Community Based Services. Adding residential habilitation and community residential services to the Medicaid Home and Community Based Services 1915 (c) waiver is an investment that will allow more eligible individuals to access the services they need to remain safe in their home and community. The Department believes implementing these services would be an effective way to keep more individuals at home in the least restrictive setting.

The chart below describes the services and illustrates the differences between the two.

HCBS MEDICAID WAIVER

Residential Habilitation Services

- Up to 24-hour services for eligible older adults and individuals with physical disabilities
- Must meet a nursing facility level of care, live alone, and can benefit from care coordination, **skills restoration or maintenance**, and community integration
- Could include **adaptive skill development**, assistance with activities of daily living, community inclusion, social, leisure skill development, medication administration, personal care/homemaker, protective oversight and supervision
- Target population- **Individuals with TBI, early stage dementia etc.**

Community Residential Services

- Up to 24-hour services for eligible older adults and individuals with physical disabilities
- Must meet a nursing facility level of care, live alone, and can benefit from care coordination, and community integration
- Could include assistance with activities of daily living, community inclusion, social, leisure skill development, medication administration, personal care/ homemaker, protective oversight and supervision
- Target population - **Individuals with physical disability, complex health needs etc.**

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These services were modeled after the residential habilitation services currently offered to individuals enrolled in the Intellectual Disabilities/Developmental Disabilities (IID/DD) waiver. These services have been very effective in keeping people with intellectual disabilities in the least restrictive setting. Many older adults and individuals with physical disabilities could benefit from similar supports; however, this type of all-inclusive service is currently not available to recipients of the Medicaid Home and Community Based Services 1915 (c) waiver. Medicaid recipients who need this level of support should have access to these types of services regardless of their disability.

Another important aspect of these services includes assistance with routine medication and the ability for the service to be provided in a group setting. State law currently allows for the delivery of routine medication and the provision of services in a residential/group home for the IID/DD population; however, there are no such provisions for the delivery of services to older adults and individuals with physical disabilities. The only group home model currently available to older adults and individual with physical disabilities is adult foster care. Adult foster care can only be

provided in a private residence owned or operated by the service provider. There are only 14 licensed homes statewide. The family model of adult foster care would not be impacted by this bill. The bill would add a definition of “agency adult foster care” to allow an agency to purchase or rent a private residence where these services including medication administration could be provided to recipients who choose to live in a small group setting. Agency adult foster care may also benefit providers because staff could provide care to more than one individual in the same location.

The appropriation for these services is included in Engrossed Senate Bill 2012 and aligns with the Executive Budget Request. The appropriation includes one full-time equivalent request for the Department along with the additional appropriation and expenditure amount of \$6,747,565, of which \$3,365,022 are general funds. In the 2019-2021 biennium the Department estimates 15 individuals will be added to the waiver and that 156 individuals already receiving some type of home and community-based services will transition to these services because it will better meet the needs of the consumer. The total amount of funds requested for these services reflects savings from the other programs.

Although these individuals are already receiving services they are often still at risk for institutional placement because the current service model does not offer all the services they need to be fully supported at home. The current model relies heavily on family caregivers and informal supports to coordinate the care for the recipients. If someone does not have a family caregiver, or the caregiver is overwhelmed in their caregiver duties, it may be very difficult for that consumer to continue to receive the level of support they need.

The requested changes are as follows:

Section 1, page 2, proposes to amend section 43-12.1-04 of the North Dakota Century Code to add qualified service providers who meet criteria set forth in

subsection 2 of section 50-24.1-18 to the list of persons exempt from the nurse practice act. This would allow trained employees of a qualified agency to administer routine medications to recipients of residential habilitation and community support services.

Section 2, page 3, amends section 50-11-00.1 to add a definition of “agency foster home for adults” which would allow an agency to purchase or rent a private residence, professionally staff it, and provide residential habitation or community support services to four or fewer adults who are not related to the owner or lessee and the changes also renumbers the section accordingly.

Section 3, page 4 and 5, amends section 50-11-02.4 of the North Dakota Century Code to remove the reference to adult family foster care and add language to clarify a facility providing foster care for adults is subject to the criminal history record investigation requirements. It also clarifies the Department will cover the cost of a criminal record check for adult foster care provided in a private family home, but agency foster care providers are responsible for the cost of the criminal record checks for their employees.

Section 4, page 6, amends section 50-11-06.8 of the North Dakota Century Code to clarify the Department shall continue to pay the cost of a nationwide background check for each facility providing foster care for children and updates language to account for the new proposed definition of “facility” regarding foster care for adults.

Section 5, page 7 amends section 50-11-06.9 of the North Dakota Century Code and includes clean up language to accommodate for the change made during the 2015 legislative session in Senate Bill 2091 as it removed the definition for “family foster home for adults”.

Section 6, page 7, amends section 50-24.1-18 of the North Dakota Century Code to allow the Department to implement residential habilitation and community support

services which would allow for the delegation of medication by an employee of a qualified service provider agency employing or contracting with a licensed registered nurse who provides supervision to trained employees. It also requires the employees of a qualified service provider agency to complete a Department approved training on the administration of routine medications before they could assist clients and requires the Department to establish rules governing the provision of these services in a residential setting or private residence.

Section 7, page 7, states the implementation of sections 1, 2, 3, 4, and 6 of this Bill are contingent upon appropriation being provided. If funds are not appropriated there would be no changes made to the definition of adult foster care or the nurse practice act.

Section 8, page 8, prevents the Department of Human Services from implementing these services unless an appropriation is included in Senate Bill 2012 to support the implementation of these services.

This concludes my testimony. I am happy to answer any questions.