

**Testimony of Donald Muse, Ph.D. Before the
North Dakota Budget Committee on Human Services
October 4, 2005**

Good Morning. My name is Donald Muse, and I am President of Muse & Associates, a health care policy consulting firm in Washington, DC. As Ms. Maggie Anderson has described, we are under contract to the Department of Human Services (DHS). Our work is focused on assisting DHS in preparation for implementation of Medicare Part D (prescription drug benefit), specifically focused on the transition of the nearly 11,000 North Dakotans who are eligible for both Medicare and Medicaid. According to the requirements in the Medicare Modernization Act (MMA), these “dual eligibles” must be transitioned to Medicare Part D prescription drug coverage on January 1, 2006. Any opinions that I express in the testimony, or in response to questions, are not necessarily those of the Department.

I have been asked to address the following four areas:

1. The process that has been used to develop the Department’s Implementation Plan;
2. A brief summary of the Implementation Plan to date;
3. Detail aspects concerning the North Dakota payments to the Federal government for those eligible for both Medicaid and Medicare known as the “clawback” payments; and
4. The next action steps, related to the transition of the dual eligibles.

How the Plan Has Been Developed

The Department of Human Services developed a list of concerns and issues that served as the starting point for the plan. It touched upon various issues within each of the categories outlined in this document such as eligibility, information technology, etc.

After reviewing the scope of work and the timeline, Muse & Associates held a meeting with the Department's Medicare Part D implementation team in early May 2005.

On May 11 and 12, 2005, the implementation team, comprised of representatives of the various divisions within the Department, met. At these meetings held at the State Capitol, issues were identified that needed to be addressed by this planning document. The issues were divided into those that the Department could resolve internally and issues that would need to be addressed by the Centers for Medicare and Medicaid Services (CMS). Education, training and outreach were also discussed in order to inform and assist as many of the interested parties as possible with the upcoming changes. In some instances, the team formulated resolutions to some of the problems. However, these initial meetings served as issue identification sessions for the Department. Subsequent to these initial meetings, phone calls and e-mails were used to elaborate and sharpen the issues list.

On June 15, 2005, another full day meeting was held with the Medicare Part D implementation team. In this meeting, the first part of the agenda was spent discussing new problems that had not been addressed in the previous session and/or reshaping the issues identified in the first meeting. A significant portion of the meeting was devoted to finding resolutions to most of the problems discussed in the first meetings. The issues were then grouped into broader categories, which provided the structure contained in this plan.

On June 20, 2005, Departmental implementation staff and Muse & Associates staff discussed issues with senior staff from the Insurance Department. Issues covered included staffing, training, and the regulation of Prescription Drug Plans (PDPs). Insurance Department staff reviewed their plans for outreach, education, and training, including a Task Force of State, Federal, private and non-profit organizations working on Medicare Part D issues and the training of Senior Health Insurance Counseling (SHIC) program staff. The Insurance Department staff agreed that there were a number of issues regarding Prescription Drug Plans' (PDPs) responsibilities to the State that

were unclear and that they would seek clarification from Centers for Medicare and Medicaid Services (CMS) on these issues.

Subsequent to these meetings, Muse & Associates contacted individual Departmental staff members to utilize their expertise in various areas of drug coverage policy in order to create this planning document.

These conference calls occurred over a two-week period in early July. These calls clarified a number of issues and their resolutions. The implementation team and Muse & Associates plan to continue this clarification and identification process throughout the drafting of this document and over the rest of 2005. Another meeting, focusing on details of the plan, was held on August 15, 2005.

The Plan to Date

Five Objectives were developed for the plan:

1. Refer North Dakota Medicare beneficiaries, who contact DHS for Medicare Part D information, to the appropriate coverage resources.
2. Work with appropriate partners to identify and address issues to smooth the transition of North Dakota dual-eligible beneficiaries to Medicare Part D coverage.
3. Minimize the financial impact on the State of North Dakota from Medicare Part D through the "state phase-down contribution," eligibility files and other avenues.
4. Help prepare North Dakota providers and suppliers to assist dual eligibility clients an orderly transition to Medicare Part D.
5. Oversee that proper coordination occurs between the Department of Human Services and other interested third parties.

The report is divided into four sections (1) an introduction, (2) the background, objectives, and scope, of the report, (3) the implementation plan and issue areas, (4) our preliminary conclusions and initial thoughts on a process for evaluation activities. Section 3, the implementation plan and issue areas, is the center of the plan. Eight issue areas that were identified: eligibility, management, information technology, communication and outreach, legal, and pharmacy. Each issue that was developed, including how the issue was resolved, is described.

Over seventy-five action steps were identified. Each area has a task, a staff member in charge, and a due date. Many other areas were identified but resolved through research, conversations with CMS staff, and other means. Approximately 25 percent of the tasks are completed as of this date and another 25 percent are ongoing. I am aware of no task that has not been completed by the due date.

“Clawback” Payments

The “clawback” payment is the amount that the State of North Dakota will pay the Federal government for assuming responsibility for prescription drug payments for dual eligibles beginning January 1, 2006. The total payment will be a per capita amount for each dual eligible multiplied by the number of eligibles for the preceding month multiplied by a factor of 90 percent for CY 2006. The factor slowly decreases to 75 percent by 2014.

We are assisting States in trying to see that this payment is not in excess of what is justifiable. The two areas that we focused on are (1) the development of a per capita based on the CY 2003 prescription drug paid claims file and (2) the development of the number of persons that will be eligible for each month.

Per Capita

The development of a representative per capita is more challenging than it would first appear. It is important to note that the CY 2003 per capita is extremely important since it will be trended forward indefinitely under current law by factors outside of North Dakota's control. Problems include correctly adjusting for rebate payments, proper accounting for adjustments in payments to pharmacies retrospectively and other factors.

Muse & Associates worked during July and early August to develop an estimate. The estimate of \$74.10 per dual eligible per month was delivered on August 16, 2005.

Number of Dual Eligibles

The number of dual eligibles for which the State must pay is determined on North Dakota's eligibility data file submitted to the Federal government each month. The Federal government sends back a data file containing those it certifies as dually eligible. This has been "rehearsed" several times and the current level of agreement is above 99.7 percent. By January 1, 2006, it should rarely disagree.

Working out the data file transfer was relatively straightforward. However, the most complex issue the task force has faced has been the interface between North Dakota eligibility policy, particularly spend down provisions and retroactive eligibility policies, to mention a few. These decisions have, in my opinion, struck a balance between seeing that dual eligibles receive the Medicare Part D benefit and the financial and real world constraints the Medicaid program faces.

Next Action Steps

We intend to continue the process of planning through the implementation of the new benefit. The process that has been put in place and updating of this report will continue throughout 2005 and into 2006. The final step in the process will be to conduct an evaluation of how well the implementation has proceeded in North Dakota. This

evaluation will collect data from the major organizations and individuals involved regarding problems encountered, how they were resolved and what problems remain. This will allow DHS to suggest evidenced based changes to the Governor, CMS, the Legislature, and to the Congressional delegation.

Implementation of the new benefit in North Dakota is far more complex than one would have thought a year ago. As January 1, 2006, approaches, more and more issues will continue to appear. The implementation of the Medicare Part D coverage has both risks and benefits for dual eligible beneficiaries in North Dakota. Financial, coverage, and other risks abound. A systematic approach to implementation of the benefit in North Dakota will make the implementation smoother than had a plan not been undertaken.