

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON HUMAN SERVICES

Wednesday and Thursday, October 6-7, 1999
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 10:00 a.m. on Wednesday, October 6, 1999.

Members present: Representatives Jeff Delzer, Ron Carlisle, Audrey Cleary, Pat Galvin, Lyle Hanson, Roxanne Jensen, Carol A. Niemeier, Clara Sue Price, Sally M. Sandvig, Ken Svedjan, Robin Weisz; Senators Dennis Bercier, Judy L. DeMers, Tom Fischer, Judy Lee, Marv Mutzenberger, David O'Connell

Members absent: Representative Todd Porter; Senator Russell T. Thane

Others present: See Appendix A

It was moved by Senator DeMers, seconded by Senator O'Connell, and carried on a voice vote that the minutes of the July 1, 1999, meeting be approved as distributed.

DEPARTMENT OF HUMAN SERVICES AND HUMAN SERVICE CENTER SERVICES STUDY

Ms. Yvonne Smith, Deputy Director, Department of Human Services, provided testimony regarding the committee's study of human service center services, pursuant to Section 28 of Senate Bill No. 2012. A copy of her testimony is on file in the Legislative Council office. Ms. Smith discussed the following information by human service center:

1. Table 1 - Unduplicated number of clients.
2. Table 2 - Admission and case closings statewide by center.
3. Table 3 - Statewide caseload by program.
4. Table 4 - Caseloads statewide by center.
5. Table 5 - Comparison of factors, including regional population, caseloads, and 1997-99 budgets.
6. Table 6 - Statewide 15-minute units of service by program.
7. Table 7 - Statewide 24-hour residential units.
8. Table 8 - Statewide units medication administration and review.
9. Caseload by population for each human service center.
10. Contracted services by human service center for the 1999-2001 biennium.

Committee members asked that the tables be updated to reflect the following information:

1. Administrative costs by human service center.
2. Refine Table 5 - Human service center comparison of factors to reflect administrative percentages, allocation of 1999-2001 budget, and adjustment of program cost and caseloads that are either provided at a center for statewide clients or provided through the central office.
3. Provide a summary of human service center general fund turnback for the 1997-99 biennium.
4. Provide information regarding actual 1997-99 biennium contracts for services by human service center.
5. Provide detail of services provided by human service center.
6. Provide a comparison of length of time clients are served under contract services as compared to human service center service.

Chairman Delzer asked that the Department of Human Services, to the extent possible, update the human service center tables to provide the information requested by committee members.

In response to a question from Representative Price, Ms. Smith said the department could provide additional information explaining why the number of vocational rehabilitation cases has increased while the units of services have decreased.

In response to a question from Representative Svedjan, Ms. Smith said the department would provide additional information regarding why developmental disability caseloads have remained relatively constant while the units of service have increased.

Chairman Delzer asked the department to include the requested information with the updated information regarding human service centers.

Chairman Delzer said the next meeting of the Budget Committee on Human Services will include a budget tour of the West Central Human Service Center and a detailed review of human service center programs, including caseloads, costs, and outcomes.

In response to a question from Senator Lee regarding the use of case aides in providing services to the seriously mentally ill, Mr. Matt Walsh, Director, West Central Human Service Center, said the case aides provide assistance to the case managers to

allow the case managers to have an increased caseload and provide more face-to-face contact with recipients. He said the cost of a case aide is approximately 25 percent less than the cost of a case manager. He said the case aides provide the contact to clients at a lower cost.

In response to a question from Representative Svedjan, Mr. Walsh said as a result of the use of case aides, psychiatrist appointments and mental health hospitalizations are reduced in the west central region. He said the region placed only 63 people during the past year at the State Hospital.

In response to a question from Senator DeMers regarding case aide training, Mr. Walsh said Bismarck State College provides a case aide training program consisting of several modules with total training ranging from 36 to 48 hours.

Chairman Delzer asked that the department provide information regarding the cost and benefits of using case aides in addition to case managers for the seriously mentally ill.

Mr. Doug Seiler, Director, Southeast Human Service Center, Fargo, said the case aide program at the West Central Human Service Center was a pilot program and other regions have monitored it to determine its effectiveness. He said the Southeast Human Service Center began late in the 1997-99 biennium to hire case aides to assist its case managers. He said case aides hired by the center are typically mental health technicians that have graduated from the State College of Science.

Mr. Rolf Storsteen, Director, South Central Human Service Center, Jamestown, said that center also uses case aides.

The committee recessed at 11:46 a.m. for lunch and reconvened at 1:00 p.m.

Ms. Smith provided testimony regarding the committee's study of the Department of Human Services, pursuant to Senate Concurrent Resolution No. 4003 and Section 25 of 1999 Senate Bill No. 2012, a copy of which is on file in the Legislative Council office. Ms. Smith discussed the progress made by the department in its strategic planning effort and said during the month of October the Department of Human Services will complete development of individual entity measures which will be formed into a cohesive, comprehensive management system. She discussed the identified draft performance measures for medical services, child support enforcement, public assistance, energy and nutrition, and program and policy. Regarding the department's implementation of the recommendations contained in Senate Concurrent Resolution No. 4003, Ms. Smith reviewed a status report detailing the 18 recommendations contained in the resolution and the department's progress in implementing each recommendation. She said through the strategic planning process the department will be addressing many of the areas outlined in Section 25 of Senate Bill No. 2012

regarding the maximization of the use of federal funds and opportunities to reduce general fund program expenditures.

In response to a question from Representative Delzer, the Legislative Council staff said the 1999 Legislative Assembly in Senate Bill No. 2015 directed the Office of Management and Budget to discontinue the program-based performance budgeting pilot project.

In response to a request from Representative Delzer, Ms. Arvy Smith, Office of Management and Budget, provided information regarding performance measures for the Aging Services and Vocational Rehabilitation Divisions of the Department of Human Services for the fiscal year ended June 30, 1997, a copy of which is on file in the Legislative Council office.

Mr. David Zentner, Director, Medical Services, Department of Human Services, provided testimony regarding the status of Medicaid drug expenditures and the department's plans to deal with a potential shortfall. A copy of his presentation is on file in the Legislative Council office. Mr. Zentner said pharmaceutical expenditures have increased from \$18.3 million in fiscal year 1996 to a projected \$26 million for fiscal year 2001. He said the current budget is \$50.3 million for the 1999-2001 biennium and if expenditure trends continue, drug expenditures could exceed appropriations by as much as \$5 million. He said the department identified several factors contributing to the increase in funding:

1. Generic drugs account for only nine percent of drug expenditures.
2. Manufacturers are acquiring generic drugs, resulting in cost increases.
3. Drug manufacturers are marketing brand name drugs, increasing the demands for physicians to write prescriptions for these drugs.
4. The introduction of new, more expensive drugs as an alternative to older, less expensive drugs.
5. An increase in the average cost of prescriptions from \$22.30 in 1993 to \$38.49 in 1998.
6. Price increases concentrated in a small number of therapeutic classes of drugs--anti-ulcer, antihistamines, antidepressants, and cholesterol-reducing drugs.

Mr. Zentner said the department, as a cost-saving measure, has agreed to pay for over-the-counter antiulcer medications previously requiring a prescription and will institute a prior authorization process for antiulcer, antihistamines, and antiarthritic medications. He said the department estimates saving approximately \$500,000 per year as a result of the prior authorization process, which will require the use of generic or over-the-counter products prior to a more expensive brand name drug being prescribed.

It was moved by Senator Lee, seconded by Senator DeMers, and carried on a voice vote that the committee ask the Department of Human Services to report at a future meeting regarding the status of the prior authorization requirement for selected pharmaceuticals, including resulting savings and other impacts.

Ms. Linda Wright, Director, Aging Services, Department of Human Services, provided testimony regarding the use of federal Older Americans Act funds for elderly abuse prevention through the regional human service centers, a copy of which is on file in the Legislative Council office. She said late in the 1997-99 biennium additional Older Americans Act funding was provided to human service centers to explore options for working with other agencies to carry out elderly abuse prevention activities. She said the activities developed are limited and the funds will not be available beyond the current biennium.

Ms. Carla Bichler, Contract Provider, Region 4 Adult Protection Services, Northeast Human Service Center, Grand Forks, provided testimony regarding the demonstration pilot project for elderly abuse prevention activities at the center, a copy of which is on file in the Legislative Council office. Her testimony includes information regarding several cases that have been referred to the center.

Ms. Michon Sax, County Social Service Director for McKenzie and Williams Counties and President of the North Dakota Association of County Social Service Directors, provided testimony regarding the committee's study of the Department of Human Services and of the human service centers, a copy of which is on file in the Legislative Council office. She said to date counties have not had an opportunity to provide input into the Department of Human Services strategic planning process.

Ms. Georgia Schultz, Chairperson, West Central Human Service Center Advisory Council, provided testimony regarding the committee's study of the human service centers, a copy of which is on file in the Legislative Council office. She invited the committee to visit the West Central Human Service Center at its next meeting.

Ms. Pat Kramer, Medical Services, Department of Human Services, provided testimony at the request of the committee of information regarding viagra utilization in the Medicaid program. The information includes the directive from the United States Department of Health and Human Services regarding states' Medicaid coverage of viagra. A copy of the information is on file in the Legislative Council office.

The committee recessed at 3:40 p.m. and reconvened at 9:00 a.m. on Thursday, October 7, 1999.

STUDY OF WELFARE REFORM ISSUES

Mr. John Opp, Director, Public Assistance Division, Department of Human Services, provided testimony regarding the temporary assistance for

needy families (TANF) program, a copy of which is on file in the Legislative Council office.

Mr. Opp's testimony included:

- August 1999 caseload was 2,991, which exceed estimates included in the 1999-2001 appropriation.
- Cass County has shown the greatest increase in caseload and Sioux County the largest decrease.
- Based on current caseloads, biennial expenditures could exceed the 1999-2001 budget by between \$800,000 to \$1 million.
- The department is developing a process to track clients after they leave the TANF program.
- To date the fiscal year 2000 federal appropriations bill does not appropriate unspent TANF moneys for other programs.
- Based on current expenditures, the department estimates the state will have approximately \$11 million of excess TANF grant funds for the 2001-03 biennium.
- Regarding unemployment information for Indian country, the Turtle Mountain and Spirit Lake Reservations have unemployment rates in excess of 50 percent which allows adults living in Rolette and Benson Counties to be exempt from the 60-month lifetime limit on benefits.
- Regarding the tribal TANF pilot program, the department sent a letter to all tribal chairs on May 8, 1999, to encourage tribes to participate in a tribal TANF program. The department did not receive any responses.
- Regarding the Rolette County pilot project, the department has established a project to train up to 50 training, education, employment, and management (TEEM) program recipients by providing assessments, job coaches, and mentors. Eleven recipients began 26 weeks of training on September 20, 1999.
- Profile information was provided regarding recipient characteristics as of October 1996, December 1998, and June 1999. Attached as Appendix B is a copy of that schedule.

In response to a question from Senator O'Connell regarding work activities, Mr. Opp said the department can provide additional detail regarding the work activities and education activities of clients.

In response to a question from Representative Niemeier regarding the family cap, Mr. Opp said the department can provide additional detail regarding children affected by the "family cap," including children born out of wedlock and in a family setting.

In response to questions from Representative Svedjan regarding unspent TANF funds, Mr. Opp said the department is reviewing what it can do to "obligate" carryover funds. He said approximately \$5 million per year of foster care and \$3 million for

Job Service contracts should be able to be obligated at yearend.

Senator Lee said the TANF program should assist people in relocating to areas of the state where jobs or training are available. She said the suspending of the 60-month limit in areas where high unemployment exists acts as a disincentive for tribal members to relocate for jobs and training.

Mr. John Bushman, Director, Division of Tribal Services, Administration of Children and Families, United States Department of Health and Human Services, Washington, D.C., provided testimony regarding tribal welfare reform issues. Mr. Bushman's written comments, information regarding tribal TANF plans, and state maintenance of effort contributions to tribal TANF programs, adjustments, and calculations are on file in the Legislative Council office. He said the TANF program has ended 60 years of welfare entitlement and provided tribes with the opportunity to administer welfare programs, resulting in a shift in focus within tribal governments and programs to emphasize individuals and community self-sufficiency and self-determination. He said tribes are having to reexamine and thoroughly analyze their tribal governmental and community infrastructures and for the first time TANF gives tribes total control of a major social initiative that carries with it true self-determination at the tribal level.

Mr. Bushman said states have been engaged in the administration of welfare programs for over 60 years and we cannot expect tribes to immediately step in to administer these programs without problems and certainly without ongoing state and federal assistance, communication, collaboration, and technical and financial support.

Mr. Bushman said there are currently 21 approved Indian TANF plans in the United States serving approximately 4,460 families and an estimated 15,600 members. He said the tribal plans are located in 12 states and the majority of those states are continuing to provide the same percentage match to the tribal grants that they were providing previously.

Mr. Bushman commented on the committee's discussion regarding tribal TANF plans. He said a policy to provide incentives for tribal members to relocate off the reservation is doomed for failure as tribal members do not want to leave their homes and families. He said the tribal members remaining on assistance are the hardest to serve, are less educated, and lack necessary work skills. He said the best hope for the future is to provide these individuals with training in life skills. He said the Department of Human Services has probably not received a response from tribal chairs for a tribal TANF pilot project because the state's initiative does not fit tribal plans. He said tribes want to operate their own program. He reviewed the state maintenance of effort contributions handout and the related reduction in the state's maintenance of effort requirement for any funding provided to tribal

programs. He said with a tribal TANF program the state is no longer required to serve the most difficult clients or find jobs for those clients.

In response to a question from Representative Price, Mr. Bushman said other tribes are allowed to define their work activities to include cultural-relevant activities such as blanket weaving, shepherding, and pottery.

In response to a question from Representative Weisz, Mr. Bushman said the federal law already allows a tribe to operate its own TANF program and Senate Bill No. 2114 passed by the 1999 Legislative Assembly does not provide a real incentive to the tribes. He said communication is often difficult between tribal leaders and the state and he is encouraged by statements made by committee members of their intentions regarding a tribal TANF program.

In response to a question from Senator DeMers regarding potential stumbling blocks for tribal TANF programs, Mr. Bushman said tribes lack the startup moneys in areas such as planning, infrastructure, and reporting requirements. He said to address this tribal governments are allowed to spend up to 35 percent of the TANF block grant on administrative costs while the state is limited to 20 percent.

Representative Price asked that committee members be provided a letter dated May 8, 1999, from the Department of Human Services to the tribes regarding a tribal TANF pilot project.

In response to questions regarding the initiative at the Turtle Mountain Indian Reservation regarding welfare reform, Mr. Bushman said the proposal was not feasible because of its funding requirements. He said since that proposal was developed there have been a lot of changes at the federal level.

Mr. Kenneth W. Davis, Turtle Mountain Band of Chippewa Indians, Belcourt, provided testimony, a copy of which is on file in the Legislative Council office. He said the Turtle Mountain work first initiative may have asked for too much, but the tribe does need state financial support because of its high unemployment rate.

Ms. Rose Labieux, Director, Employment and Training Program, Spirit Lake Tribe, Fort Totten, distributed testimony from Mr. Thomas Disselhorst and Mr. Leo Cummings, Three Affiliated Tribes, a copy of which is on file in the Legislative Council office. Ms. Labieux provided testimony regarding her concerns on the reauthorization of the tribal welfare-to-work programs and the state's denial of a jobs training contract with the Spirit Lake Tribe employment and training program, a copy of which is on file in the Legislative Council office.

Ms. Cynthia Mala, Director, Indian Affairs Commission, said welfare reform provides the state and tribal leaders an opportunity for change and North Dakota can be a leader in this effort.

Ms. Sax provided testimony regarding welfare reform, a copy of which is on file in the Legislative

Council office. She said several counties feel there is a need to evaluate the assessment process as clients are "working" the assessment process so that job referrals are not being generated. She said a major concern is what will happen to families who have not attained self-sufficiency at the end of five years or the 60-month limit on assistance payments. She said these families will either become a county responsibility, a state general assistance program responsibility, or be left to fend for themselves.

In response to questions from committee members, Mr. John Hougen, Department of Human Services, said county eligibility workers are not trained to determine if people have an addiction problem although the department will review the process to see if dependency problems can be addressed earlier.

Ms. Sandi LaRocque, Director, Adult and Continuing Education, Turtle Mountain Community College, Belcourt, provided testimony, including the TANF feasibility study prepared by Conrad and Associates, the *Population and Crisis* comments prepared by the Turtle Mountain Community College regarding the TANF feasibility study, and testimony regarding Senate Bill No. 2412 provided during the 1999 Legislative Assembly.

Representative Merle Boucher, Rolla, provided testimony regarding the committee's study of tribal TANF issues. Representative Boucher said he is encouraged by the committee's study and said change can take place which is evident by the renegotiation of the Indian gaming compacts. He said the dialogue has been opened and the groundwork laid to develop solutions to tribal TANF issues. He said dealing with people and providing services to children is the goal. He said there are 29,400 enrolled members of the Turtle Mountain tribe of which only 12,000 live on the reservation, indicating that a large number of reservation people have already relocated.

Senator Bercier said he attended a conference in Palm Springs, California, on improving state-tribal relations in the face of devolution. Senator Bercier distributed copies of National Conference of State

Legislatures reports on improving state-tribal relations in the face of devolution and on the challenges, resources, and flexibility of using TANF block grant and state maintenance of effort dollars, a copy of which is on file in the Legislative Council office. Senator Bercier asked that Mr. Opp provide committee staff with a copy of the letter written by the Governor regarding stopping the 60-month limit of benefits at the two reservations.

Representative Price asked that the document entitled *Population and Crisis* prepared by the Turtle Mountain Community College be provided to committee members.

Chairman Delzer said the committee would meet for its next meeting at the West Central Human Service Center either in late November or early January and the meeting would include a budget tour of the center and a focus on human service center programs.

It was moved by Senator DeMers, seconded by Senator Bercier, and carried on a voice vote that the committee request the Department of Human Services to provide information regarding the federal fiscal year 1994 TANF funding allocation by tribe and the state's related maintenance of effort.

The committee adjourned at 2:50 p.m. subject to the call of the chair.

Jim W. Smith
Assistant Legislative Budget Analyst and Auditor

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

ATTACH:2