NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON HEALTH CARE

Tuesday and Wednesday, October 23-24, 2001
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Judy Lee, Chairman, called the meeting to order at 9:05 a.m.

Members present: Senators Judy Lee, Gary A. Lee, Michael Polovitz, Russell T. Thane; Representatives Rick Berg, Audrey B. Cleary, William R. Devlin, David Drovdal, Jim Kasper, George Keiser, Kenton Onstad, Chet Pollert, Todd Porter, Clara Sue Price, Robin Weisz

Members absent: Senators Dennis Bercier, Ken Solberg; Representative Carol A. Niemeier

Others present: See attached appendix

Chairman J. Lee introduced Senator Gary A. Lee, newly appointed member of the Legislative Assembly and the Budget Committee on Health Care.

It was moved by Representative Keiser, seconded by Representative Kasper, and carried on a voice vote that the minutes of the August 22, 2001, meeting of the Budget Committee on Health Care be approved as distributed.

MANDATED HEALTH INSURANCE COVERAGE STUDY

Chairman J. Lee called on Mr. Lou McPhail, Insurance Department legal counsel, who presented testimony relating to the committee's study of mandated health insurance coverage. A copy of his testimony is on file in the Legislative Council office. Mr. McPhail said that mandates are thought to be major contributors to the cost of health insurance, but there is little agreement on exactly how much they cost. He said one reason for the lack of agreement on the actual cost of mandates is a lack of consensus on the definition of a "health insurance mandate." He said a traditional definition limits the term to refer to those regulations that require coverage of a specific medical condition or illness, a particular service or provider, or a particular group of people who would otherwise be excluded. He said using this traditional definition, there are 24 North Dakota statutory sections that qualify as mandates, as listed below:

North Dakota Century Code Section	Description
26.1-36-03.1	This section requires that all covered persons be provided **written disclosure** of the terms and conditions of a policy or contract plus additional information upon request.
26.1-36-06	This section requires an insurer to offer coverage for **prescription drugs** and **chiropractic services**, for which an additional premium may be charged.
26.1-36-06.1	This section requires coverage for **off-label use of drugs** when the drug is recognized as a treatment option.
26.1-36-07	This section requires **coverage for newborn and adopted children** for at least 31 days after birth or adoption, after which an additional premium may be required to maintain coverage.
26.1-36-08	This section requires **substance abuse coverage** for 60 days of hospitalization, 120 days of partial hospitalization, and 20 outpatient visits per year.
26.1-36-09	This section requires **mental health coverage** for 45 days of hospitalization, 120 days of partial hospitalization, 120 days of residential treatment, and 30 hours of outpatient care per year.
26.1-36-09.1	This section requires coverage for **mammograms**.
26.1-36-09.2	This section requires coverage for **involuntary complications of pregnancy**.
26.1-36-09.3	This section requires coverage for the treatment of **temporomandibular joint disorder** and **craniomandibular disorder** up to a lifetime maximum of $10,000 for surgical treatment and $2,500 for nonsurgical treatment.
26.1-36-09.4	This section limits cost-sharing on the standard plan for **prenatal care and immunizations** to copayments of $5 and $2, respectively.
26.1-36-09.5	This section requires direct **reimbursement for advanced registered nurse practitioner services**.
26.1-36-09.6	This section requires coverage for an **annual prostate-specific antigen test** for males age 50 and over, 40 and over if at high risk for prostate cancer.
26.1-36-09.7	This section requires plans which provide prescription coverage to provide coverage for food and food products for the treatment of **inherited metabolic diseases**.
26.1-36-09.8	This section requires coverage for **inpatient**

North Dakota Century Code Section	Description
	care for mothers and newborns for 48 hours after a normal delivery, 96 hours after a Caesarean section delivery.
26.1-36-09.9	This section requires benefits for **dental anesthesia and hospitalization for dental care** provided to a child under age 9 who is severely disabled or who has a medical condition and requires hospitalization or anesthesia for dental treatment.
26.1-36-09.10	This section requires health insurance contracts providing emergency medical services benefits to provide coverage for **emergency medical conditions**, as defined using the prudent layperson standard.
26.1-36-09.11	This section requires compliance with the federal **Women's Health and Cancer Rights Act of 1998**.
26.1-36-12.2	This section requires **freedom of choice for pharmacy services**.
26.1-36-20	This section requires the **continuation of coverage for a juvenile** in the custody of a public institution or agency.
26.1-36-21	This section requires the **continuation of coverage for a prisoner** incarcerated under state supervision.
26.1-36-22	This section requires **coverage of dependents** up to age 22 who are financially dependent on the insured; up to age 26 if a full-time student; indefinitely if mentally retarded or physically handicapped.
26.1-36-23	This section requires **continuation of coverage for up to 39 weeks after termination of employment or membership**.
26.1-36-23.1	This section requires **continuation of coverage for up to 36 months for a former spouse's independent children after a divorce or annulment**.
43-13-31	This section **prohibits payment discrimination for optometric services** by licensed practitioners of optometry and physicians.

Mr. McPhail said the Insurance Commissioner has decided to contract with Milliman USA, Consultants and Actuaries, Minneapolis, Minnesota, to conduct a cost-benefit evaluation of existing health insurance coverage mandates, as required by Section 2 of 2001 House Bill No. 1407. He said that of the firms contacted, Milliman USA offered the most economical and comprehensive cost-benefit evaluation. He said the contract with Milliman USA will provide for an analysis of the 24 North Dakota mandates listed above at an estimated cost of $135,000 to $145,000.

Mr. McPhail said the proposed cost-benefit analysis to be conducted by Milliman USA will include consideration of:

- The number of persons and the percent of the insured population expected to use services or providers for which coverage is mandated.
- The number of individuals likely to be afflicted by various illnesses for which mandated benefits or services are available.
- An analysis of the physical and economic costs of not providing a mandated service or benefit.
- The direct and indirect costs associated with health insurance benefit mandates.
- An analysis of the benefits of providing mandated services and benefits.
- An analysis of the insurance benefits which would likely be included in group health insurance policies, even if a legislative mandate was not in place.

Mr. McPhail said the following items will not be included in the proposed evaluation to be conducted by Milliman USA but may be included at an additional cost:

- A survey of self-funded employer insurance plans.
- A report on how increases in premiums impact the number of uninsured.
- An assessment of small employer standard, basic, and catastrophic plans offered to employers in North Dakota.
- The development of recommendations for procedures relating to the review of future health insurance mandates.

Representative Berg said the Insurance Department should consider including the optional items in the cost-benefit evaluation because those items are of interest to legislators.

Representative Keiser requested that the Insurance Department provide the committee with the written proposal from Milliman USA outlining the scope of the cost-benefit evaluation. Chairman J. Lee requested that prior to the committee's next meeting, the Insurance Department distribute information to members of the committee regarding the proposed scope of the Milliman USA analysis.

Mr. McPhail also presented the following information, requested by the committee at its last meeting:

- The number of policies issued, persons covered, premiums collected, and claims paid for health insurance coverage in the state during calendar year 2000, categorized by large group, small employer, and individual policies.
- Medicare supplement insurance premium and claim information for all health insurance carriers offering such coverage in North Dakota during calendar year 1999.

Chairman J. Lee said the number of mandates may influence an insurer's decision to leave North Dakota. She requested that the Insurance Department provide the committee a list of health insurance companies that have left the state during the past 12 months and, if available, the reasons why each company chose to leave North Dakota.

Chairman J. Lee called on Mr. Rod St. Aubyn, Director, Government Relations, Blue Cross Blue Shield of North Dakota, who presented information

relating to the number of employer-sponsored group health insurance policies and the number of individual health insurance policies issued by Blue Cross Blue Shield of North Dakota. A copy of the information presented is on file in the Legislative Council office. Mr. St. Aubyn said as of August 31, 2001, Blue Cross Blue Shield of North Dakota had in effect 153,365 employer-sponsored group health insurance policies covering 364,233 members. He said the company also had 64,547 individual health insurance policies covering 79,179 members. He said rising health insurance premiums are a concern to employers nationally and in North Dakota. He said employers across the state are struggling to maintain health insurance benefits for their employees. He said the committee's study to review current mandates and limit future mandates will be a benefit to North Dakota citizens.

In response to a question from Representative Keiser, Mr. St. Aubyn said approximately 20 percent of the total payments for health care services by Blue Cross Blue Shield of North Dakota relates to payments for mandated benefits and services.

Chairman J. Lee called on Ms. Rose Stoller, Executive Director, Mental Health Association in North Dakota, who distributed information on national studies regarding the effectiveness of alternative treatments for mental illness as requested by the committee at its last meeting. A copy of the information distributed and Ms. Stoller's testimony is on file in the Legislative Council office. She said the use of alternative treatments for many health conditions is on the rise and the Mental Health Association in North Dakota is concerned about the lack of research supporting such treatment for mental illnesses. She said that persons who utilize over-the-counter treatments for mental illness are missing an important step in the treatment process--assessment and diagnosis by a physician or mental health professional.

Representative Kasper said there may be European or Asian studies regarding the effectiveness of alternative and natural treatments for mental illness. He requested Ms. Stoller determine if information relating to any such studies is available and, if available, provide copies to the committee.

At the request of Chairman J. Lee, the Legislative Council staff presented a memorandum entitled *Health Insurance Coverage Mandates in Other States*. Based on a survey conducted by Blue Cross Blue Shield, in 1999 there were 1,391 state health insurance mandate laws, of which 677 mandated certain benefits, 444 mandated the coverage of specific provider services, 241 mandated specific groups of persons be covered, and 29 mandated coverage for specific procedures. The memorandum includes a listing of benefit and other mandates enacted by states during the year 2000 and a listing of previously enacted mandates in each state.

At the request of Chairman J. Lee, the Legislative Council staff presented a memorandum entitled *Other States' Efforts to Limit or Evaluate the Effect of Enactment of New Health Insurance Benefit Mandates*. The memorandum indicates that, based on surveys conducted by Blue Cross Blue Shield in 2000 and 2001, 24 states have requirements for the evaluation of proposed health insurance benefit mandates. The states with mandate evaluation requirements, the year each requirement was enacted, and the party responsible for conducting or arranging for the evaluation are listed on the following table:

State	Year Enacted	Party Responsible for Evaluation
Arizona	1985	Proponents of the legislation
Arkansas	2001	Advisory Commission on Mandated Health Insurance Benefits
Colorado	1998	State Personnel Department
Florida	1987	Proponents of the legislation
Georgia	1989	State Insurance Department
Hawaii	2001	Legislative advisory panel
Iowa	1991	State Insurance Department
Kansas	1990, 1999	State Insurance Department
Kentucky	1998	Proponents of the legislation
Louisiana	1997, 1999	Legislative fiscal staff
Maine	1998	State Insurance Department
Maryland	1998	Health Care Access and Cost Commission
Nevada	1989	Legislatively established commission
New Jersey	1999	Task Force on Affordability of Health Care
North Dakota	2001	Legislative Council (contract with consultant)
Ohio	2000	Legislative Budget Office
Oregon	1985	State Health Council
Pennsylvania	1986	Health Care Cost Containment Council
South Carolina	1990	State Budget Control Board
Tennessee	1989	Legislative Fiscal Review Committee
Texas	1999	Legislatively established commission
Virginia	1990	Advisory Commission on Mandated Benefits
Washington	1997	Proponents of the legislation
Wisconsin	1988	State Department of Employee Trust Funds

Chairman J. Lee called on Mr. Rick Pelishek, Director, North Dakota Disabilities Advocacy Consortium, who commented on the committee's study and the need for the committee to consider the impact on

disabled persons of eliminating certain benefit mandates.

COORDINATION OF MEDICAID AND HEALTHY STEPS PROGRAMS STUDY

Chairman J. Lee called on Mr. David Zentner, Director of Medical Services, Department of Human Services, who presented testimony relating to the coordination of the Medicaid and Healthy Steps programs. A copy of Mr. Zentner's testimony is on file in the Legislative Council office. He said the Department of Human Services has developed a draft of a joint application form for the Medicaid and Healthy Steps programs, a copy of which is attached to Mr. Zentner's testimony.

Mr. Zentner said the committee's study deals with the feasibility of expanding the Healthy Steps program to provide family health insurance coverage through employer-sponsored insurance. He said the Legislative Assembly has not directed the Department of Human Services to submit a state children's health insurance program (CHIP) plan amendment to provide employer-sponsored health insurance coverage. He recommended further study to determine if such a program would be feasible and cost-effective in North Dakota.

Mr. Zentner's testimony also included enrollment statistics and costs for the Healthy Steps program, required to be presented to the committee pursuant to North Dakota Century Code Section 50-29-02. He said as of October 1, 2001, the Healthy Steps program has been operating for two years. He said during the 12-month period ended October 1, 2001, a total of 3,197 children were enrolled in Healthy Steps; the number of children enrolled as of October 1, 2001, was 2,560. He said the number of children enrolled in Healthy Steps as of October 1, 2001, represents approximately 65 percent of the estimated number of eligible children based on the 1998 Robert Wood Johnson Foundation survey of uninsured children. He said for the federal fiscal year ended September 30, 2001, the department spent a total of $3,173,901 for premium payments to Blue Cross Blue Shield of North Dakota for the program.

Representative Keiser asked if the data collected during the 1998 survey funded by the Robert Wood Johnson Foundation is still a reliable basis for estimating the current number of eligible children. Mr. Zentner said the results of the study were thought to be accurate in 1998. He said the data may have changed somewhat in the last three years, but the department is assuming that any changes have been insignificant.

In response to a question from Senator J. Lee, Mr. St. Aubyn said the Caring Program, administered by Blue Cross Blue Shield of North Dakota, currently has 513 children enrolled.

In response to a question from Representative Porter, Mr. Zentner said although as of October 1, 2001, the state had enrolled approximately 65 percent of the estimated number of children eligible for Healthy Steps, the unduplicated count of children enrolled during the preceding 12 months probably represents around 70 percent of the total eligible. In response to a request from Representative Porter, Mr. Zentner said the department will provide information to the committee regarding how North Dakota compares to other states in the percentage of eligible children enrolled in CHIP.

Representative Price said the number of children enrolled in CHIP in South Dakota is higher than originally estimated. Representative Price asked if the Department of Human Services has had discussions with their counterpart agency in South Dakota regarding the state's outreach activities. Mr. Zentner said the Department of Human Services has not contacted the state of South Dakota regarding its outreach activities but will do so. He said although the number of enrolled children in South Dakota is higher than originally estimated, the percentage of eligible children enrolled may not be higher than in North Dakota.

Representative Price asked how surrounding states compare to North Dakota regarding CHIP income eligibility criteria as a percentage of the federal poverty level. Mr. Zentner said he will provide the committee a copy of a report that shows for each state the income eligibility guidelines for CHIP, including whether the eligibility is based on net or gross income and the deductions used to arrive at net income.

Representative Price suggested the Department of Human Services consider changing the proposed Medicaid/Healthy Steps application form to clearly label the income eligibility amounts as net income. She said the proposed application does not clearly indicate that the income eligibility levels are net income.

Representative Berg suggested the Department of Human Services develop a one-page summary of the various health insurance coverage options available to children and the eligibility requirements for each coverage option such as the Caring Program, Healthy Steps, and Medicaid. Mr. Zentner said the department will work with the Legislative Council staff to prepare the requested summary for the committee. Representative Berg said the department may want to consider providing such a summary sheet to health care providers in the state.

The committee recessed for lunch from 11:50 a.m. to 1:00 p.m.

At the request of Chairman J. Lee, the Legislative Council staff presented a memorandum entitled *Administrative Functions for State Children's Health Insurance Programs*. The memorandum indicates that in all states some administrative functions for CHIP are performed at the state agency level. Administrative functions include distributing applications, determining eligibility, calculating bills and

cost-sharing, and gathering and analyzing data. In addition to the administrative functions performed at the state agency level, one state uses local social service agencies to determine eligibility and eight states use a third party, such as a nonprofit entity, to perform eligibility or other administrative functions.

Representative Berg requested that the Legislative Council staff prepare information that shows the percentage of eligible children enrolled in CHIP in each state that uses an administrative approach other than administration by a state agency.

At the request of Chairman J. Lee, the Legislative Council staff presented a memorandum entitled *Elimination of Medicaid Asset Test - Other States' Actions*. The memorandum summarizes state requirements which must be met before the Centers for Medicare and Medicaid Services will consider approval of a Section 1115 demonstration waiver, including the requirement that the state must provide CHIP coverage for children up to age 19 with family incomes up to at least 200 percent of the federal poverty level. For demonstrations that seek to cover populations other than targeted low-income children, the state must show it has adopted at least three of the following five policies and procedures in its CHIP and Medicaid programs:

1. Use a joint mail-in application.
2. Eliminate asset tests.
3. Provide continuous 12-month eligibility.
4. Offer presumptive eligibility for children.
5. Have simplified coverage and enrollment procedures.

The memorandum indicates that, based on a January 2001 report by the National Conference of State Legislatures, 38 states provide CHIP coverage to children at or above 200 percent of the federal poverty level. Of those 38 states, 35 states use a joint application form for the Medicaid and CHIP programs, and 36 states have eliminated the asset tests for those programs.

At the request of Chairman J. Lee, the Legislative Council staff presented a memorandum entitled *Premium Assistance Programs - Actions Taken By Other States*. Several states have used Section 1115 demonstration waivers to provide adult and family coverage through a premium assistance program for employer-sponsored insurance. The memorandum includes information relating to four states (Massachusetts, New Jersey, Rhode Island, and Wisconsin) that have implemented premium assistance programs. The memorandum also summarized the guidelines relating to the Centers for Medicaid and Medicare Services health insurance flexibility and accountability initiative, which offers states the increased programmatic flexibility of a Section 1115 waiver through a simplified application and approval process.

Chairman J. Lee said as part of the committee's study of the coordination of the Medicaid and Healthy Steps programs, the committee may want to consider the state's income eligibility criteria, currently based on family net income at or below 140 percent of the federal poverty level. She said the committee may want to consider whether that should be changed to a different percentage and whether it should be based on gross or net income.

In response to a question from Representative Price, Mr. Zentner said the Department of Human Services is currently working on cost estimates which will be provided to the committee regarding changing the current 140 percent net income eligibility requirement for the Healthy Steps program. He said the information should be available by the committee's next meeting.

Representative Berg requested the Legislative Council staff contact the National Conference of State Legislatures to determine if information is available regarding how other states measure the percentage of eligible children enrolled in CHIP and the total number of uninsured children in the state.

Representative Berg asked how many children in North Dakota are being denied medical care because they do not have health insurance coverage. Mr. Zentner said he is not aware of instances where a child is denied medical care because they lack the ability to pay or lack insurance. He said if a needy child arrives at an emergency room, they receive care even if the health care provider will likely not receive compensation for that care.

Representative Price said the Department of Human Services' *At a Glance* publication should be made available to committee members at the next meeting. She said the document provides valuable information regarding Medicaid and other programs.

Representative Keiser said as the North Dakota economy weakens and more people become unemployed, there may be more families without health insurance coverage. He requested that at the next meeting, a representative of Job Service North Dakota provide information on unemployment trends and projections in North Dakota.

Representative Price requested that a representative of the Insurance Department present information to the committee at its next meeting regarding the number of employers in North Dakota that have dropped health insurance coverage during the last 12 months and trends in employer-sponsored health insurance coverage in North Dakota.

Representative Price requested that the North Dakota Medical Association gather information on the amount of uncompensated care provided by North Dakota health care providers, including information on cases where uncompensated care is provided because the patient has no insurance and cases where the patient has insurance but cannot pay the high deductible or coinsurance requirements included in their insurance policy. Mr. David Peske, Director of Governmental Relations, North Dakota Medical

Association, said he is not sure if that information is available from health care providers.

COORDINATION OF BENEFITS FOR CHILDREN WITH SPECIAL NEEDS STUDY

Chairman J. Lee called on Mr. St. Aubyn who discussed the status of the Blue Cross Blue Shield of North Dakota task force on augmentative communication devices. Mr. St. Aubyn said Blue Cross Blue Shield of North Dakota established a task force to address the coordination of benefits for children with special needs. He said as a result of that task force, changes were made in the company's benefit structure to provide coverage for habilitative and other services for children with special needs. He said a new task force has been established to address issues relating to coverage for augmentative communication devices. He said the task force has held preliminary meetings and will continue to work on issues relating to this topic. He said he will provide updates to the committee regarding the progress of the task force.

Chairman J. Lee called on Mr. Zentner who presented testimony on interagency cooperative agreements entered into by the Department of Human Services relating to the coordination of benefits and services for children with special needs. A copy of his testimony is on file in the Legislative Council office. He reviewed the provisions of six cooperative agreements entered into between the Department of Human Services and other agencies.

Chairman J. Lee called on Mr. Bob Rutten, Director of Special Education, Department of Public Instruction, who presented testimony related to interagency cooperative agreements entered into by the Department of Public Instruction for the coordination of benefits and services for children with special needs. A copy of Mr. Rutten's testimony is on file in the Legislative Council office. He said as of December 1, 2000, there were 13,650 North Dakota children with disabilities receiving special education and related services. He said this number represents 11.5 percent of the total student enrollment in North Dakota. He said the Department of Public Instruction has three cooperative agreements in place regarding the coordination of benefits and services for children with special needs. The provisions of the three agreements were reviewed by Mr. Rutten.

Chairman J. Lee said as part of the committee's study of the coordination of the Medicaid and Healthy Steps programs, the committee may want to review outreach efforts of the Department of Human Services. She said information on the number of children eligible for free or reduced price lunches may be of interest to the committee because there may be the potential for coordination of enrollment functions for the school lunch and the Healthy Steps programs. Mr. Rutten said the Department of Public Instruction maintains data on the number of children receiving free or reduced price school lunches and will provide information to the committee. Statistics relating to the school breakfast and lunch programs and a booklet on the state's child nutrition and commodity programs were distributed to the committee, copies of which are on file in the Legislative Council office.

The committee recessed at 2:55 p.m. and reconvened at 9:00 a.m. on Wednesday, October 24, 2001.

PRESCRIPTION DRUG PRICES STUDY

Chairman J. Lee called on Mr. St. Aubyn who presented information relating to the 10 top selling drugs in North Dakota and payments made by Blue Cross Blue Shield of North Dakota for the treatment of illnesses in the 30 most common diagnostic categories. A copy of the information presented is on file in the Legislative Council office.

Representative Kasper requested that Blue Cross Blue Shield of North Dakota provide information on payments made by Blue Cross Blue Shield for the 10 most common outpatient procedures. Mr. St. Aubyn said he will provide the requested information to the Legislative Council staff for distribution to the committee.

Representative Porter said the information distributed by Blue Cross Blue Shield of North Dakota indicates total charges, not actual reimbursements. He requested the Legislative Council staff prepare information comparing actual reimbursement rates for the 20 most common diagnostic-related groups (DRGs) in North Dakota, as follows:

- Medicare reimbursement rates in North Dakota and surrounding states.
- Medicaid reimbursement rates in North Dakota and surrounding states.
- Blue Cross Blue Shield of North Dakota reimbursement rates compared to private insurers in surrounding states.
- Other private insurers' reimbursement rates in North Dakota and surrounding states.

Chairman J. Lee called on Mr. Zentner who presented information regarding trends in Medicaid expenditures and the utilization. A copy of the information presented is on file in the Legislative Council office. He said in August 1997, 33,935 North Dakotans received Medicaid services at a cost of approximately $21 million. He said that number declined somewhat by September 2001 when 33,333 North Dakotans received Medicaid services at a cost of approximately $22.8 million. He said the cost per recipient increased from $617.52 in August 1997 to $684.73 in September 2001. He said all indicators for drug trends, including number of recipients, number of prescriptions, and cost of prescriptions, are increasing. He said, however, the major factor driving increased drug costs appears to be the increase in the average cost of prescriptions.

Mr. Zentner also discussed various cost containment options available to assist in controlling Medicaid drug costs, including the use of a drug formulary, prior authorization, counter-detailing, disease management, and maximum allowable cost programs.

In response to a question from Senator J. Lee, Mr. Zentner said a disease management program is a process utilizing specially trained pharmacists to work in concert with the patient, the prescribing physician, and other members of the health care team to improve patient compliance and outcomes. Mr. Zentner said the Department of Human Services plans to begin Medicaid pharmacy disease management programs for the treatment of certain conditions.

Senator J. Lee asked who will provide training to pharmacists for the proposed disease management programs. Mr. Brendan Joyce, Pharmacy Administrator, Department of Human Services, said national entities provide continuing education programs for pharmacists in the area of disease management.

Senator G. Lee said it may be appropriate for other health care providers, such as nurses, to be included in disease management training programs. Mr. Joyce said the pharmacist training specializes in medication management. He said, however, a successful disease management program must include collaboration with physicians, nurses, pharmacists, and other health care providers.

Representative Weisz said some of the increase in Medicaid drug utilization may be attributable to increases in dosage rates. He requested the Department of Human Services provide information on trends in Medicaid utilization rates for major drugs.

Representative Devlin requested that at future meetings, the Department of Human Services provide an update to the committee on the status of the Drug Utilization Review Board. Mr. Joyce said he provided a report to the Budget Section at its October 9, 2001, meeting regarding the activities of the Drug Utilization Review Board. Copies of his testimony to the Budget Section were distributed to committee members.

Representative Devlin requested that future updates provided to the committee regarding the Drug Utilization Review Board include testimony from the medical representatives on the board. Chairman J. Lee said time will be included on the agenda for the committee's next meeting for presentations by representatives of the North Dakota Medical Association and the North Dakota Pharmaceutical Association regarding their view on the status of the Drug Utilization Review Board.

Chairman J. Lee called on Mr. Cal Rolfson, North Dakota legislative consultant for the Pharmaceutical Research and Manufacturers of America (PhRMA). Mr. Rolfson introduced the presenters representing PhRMA--Ms. Kelly Marshall, Pharmacia Corporation, Omaha, Nebraska; Mr. Chris Ward, PhRMA, Ontario, Canada; Dr. Tony Lorden, PhRMA, New Brunswick, Canada.

Mr. Ward discussed the Canadian health care system and drug benefit plans implemented by various Canadian provinces. He said states, such as North Dakota, need to be aware that efforts to manage pharmaceutical costs can have potential negative impacts on other areas of health care. He said individual components of health care cannot be managed individually. Mr. Ward also presented statistics and information relating to the pharmaceutical and health care industries in the United States. A copy of his testimony is on file in the Legislative Council office.

Dr. Lorden discussed his experience as a family physician in New Brunswick and the difficulties of operating in a health care system restricted by prior authorization requirements for prescription drugs. He said physicians are required to prescribe certain drugs for certain conditions, even if other drugs are more effective and have a lower occurrence of undesirable side effects. He said when considering prescription drug management plans, legislators need to consider the impact on patient access and choice.

Ms. Marshall discussed the effectiveness and cost-savings of newer medications. She said even though newer medications cost more per prescription, they may result in an overall net savings in health care costs due to fewer side effects, better patient compliance, and increased effectiveness.

At the request of Chairman J. Lee, the Legislative Council staff presented a memorandum entitled *Medicaid Drug Costs and Projected Demographic Changes in North Dakota*. General fund Medicaid drug costs increased from 1991 to 1999 at an average biennial rate of 36.65 percent. The following table indicates the potential increases in general fund Medicaid drug costs if general fund costs continue to increase at the recent actual rate of 36.65 percent per biennium through the 2013-15 biennium:

Biennium	Possible General Fund Medicaid Drug Costs
1999-2001 (actual)	$19,469,799
2001-03	$26,605,480
2003-05	$36,356,389
2005-07	$49,681,005
2007-09	$67,889,094
2009-11	$92,770,447
2011-13	$126,770,816
2013-15	$173,232,320

Senator Thane said the age 65 and older population in North Dakota is anticipated to increase significantly through the year 2015. He said, however, certain segments of that population, such as the age 85 and older population group, are anticipated to increase at an even faster rate. He said the older population groups will contribute significantly to increased health care costs in North Dakota. Senator Thane requested that the committee be provided with demographic projections relating to the increases in

the various subgroups of the age 65 and older population.

At the request of Chairman J. Lee, the Legislative Council staff presented a memorandum entitled *Prices for Certain Brand Name Drugs - United States, Canada, and Mexico*. The memorandum includes the following table which shows, for 10 of the top 25 drugs prescribed in North Dakota, the average price in the United States, Canada, and Mexico.

Prescription Brand Name	Average Price in United States	Average Price in Canada	Average Price in Mexico
Celebrex	$77.15	$33.75	$36.00
Glucophage	$64.15	$14.00	$30.00
Lipitor	$229.93	$164.00	$108.00
Premarin	$35.17	$12.00	$17.00
Prilosec	$360.50	$170.36	$169.00
Prozac	$105.64	$43.00	$50.00
Singulair	$64.42	$52.00	$30.00
Welbutrin	$81.98	$45.00	$39.00
Zocor	$101.82	$60.00	$48.00
Zoloft	$62.00	$31.00	$29.00

Chairman J. Lee called on Mr. Peske who presented information on standards dictating the prescribing practices of physicians and an American Medical Association report on increases in spending on prescription drugs in the United States. A copy of the information presented is on file in the Legislative Council office. Mr. Peske said a physician focuses on the optimal treatment plan for each patient and is not always aware of the insurance status of the patient or the cost of pharmaceuticals used in the treatment. He said a physician simply prescribes the drug which in their judgment and clinical experience will most efficiently treat each patient's ailment. He said physicians are guided by various ethical standards in their prescribing of medications. He said ethical standards prohibit physicians from accepting gifts from the pharmaceutical industry in exchange for prescribing selected medications. He said other ethical standards deal with direct-to-consumer advertisements of prescription drugs. He said ethical standards dictate that physicians should deny patient requests for inappropriate prescriptions and educate patients as to why certain advertised drugs may not be suitable treatment options.

Chairman J. Lee called on Mr. Pelishek who discussed the high cost of drugs for certain persons such as the disabled or elderly. He said parents of children with special needs often incur high out-of-pocket expenses for drugs, even if they have insurance. He said the North Dakota Disabilities Advocacy Consortium has co-released a report regarding the high cost of prescription drugs. He said he will provide a copy of the report to the Legislative Council staff for distribution to the committee.

Chairman J. Lee announced that the committee's next meeting is tentatively scheduled for February 12, 2002.

The meeting adjourned at 12:55 p.m. at the call of the chair.

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Joe R. Morrissette
Senior Fiscal Analyst

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Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1