MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1217

2005 HOUSE HUMAN SERVICES

HB 1217

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1217

House Human Services Committee

☐ Conference Committee

Hearing Date January 19, 2005

Tape Number	Side A	Side B	Meter #
# 1		x	#2000- # - 5070

Committee Clerk Signature

Minutes:

Chairman Price opened the hearing on HB 1217.

Rep. Weisz: Introduced this last session, nothing has happened since we passed it. This bill is essentially the same thing, approaching it slightly different way to determine how the long term care insurance shall be determined, regarding the look back on assets. I think it is important, that we look at long term care insurance, that we need to take care of ourselves and not become a ward of state.

Rep. Devlin: Can you clarify the $164, 250.00 came from.

Rep. Weisz: This is a copy of the Indiana state law. I can't speak for Rep. Keiser as why he put that number in there. The dept. will probably take a look at that figure.

Greg Larson, Attorney in Bismarck. I am in favor of this bill.

This does reflect Indiana's law. The Fed. Govt. allowed 5 states as a test group, to come in with a nursing home insurance statute that could apply in their states, Indiana being one of them. Of the 5 states that tried the program, Indiana's was the most successful. The premium amount is reflected in the $164,250.00. I am not sure of the monthly cost to compare these figures. There was a long term care ins. bill last session, however the numbers were not workable. If someone had $100,000.00 in assets, they could pay for that amount of insurance, to provide a lifetime benefit. In the larger estates, if they want to protect a large estate, they have to go through planning to assist them with that. In talking to experts, there seems to be no problem to structure a policy to fit almost everyone's needs. ND has the highest nursing home coverage in US. This bill will move costs from Medicaid to 3rd party insurers.

David Zentner: See attached testimony

Rep. Kaldor: Do you know how most of the LTC Ins plans work in terms of that so-called coverage, do they climb as time goes by?

D. Zentner: You can certainly do that and are encouraged to do that, but you can tailor that policy to your specifications and it is about 5% a year.

Chairman Price: Give me an example about the dollar for dollar would go in Sec. 1.

D. Zentner: If you purchase 60,000 estate, you would purchase $60,000 worth of coverage, and once you used that up, you would be eligible for Medicaid, excluding the fact that you have no other money or estate value.

Chairman Price: What happens in those states, if part of the assets happen to be a house or something that might appreciate in value?

D. Zentner: If I was worried about that, I would purchase the maximum amount of insurance.

Member of the audience: How does medical insurance cover a person that doesn't have any family.

D. Zentner: Each case is evaluated individually.

Rep. Porter: Could someone from the LTC industry that is here explain something of the products?

J. Spiliby, SIA Marketing.

Rep. Porter: The dept. is saying that the product should closer to the $197,000 mark, with a 5% compound rate. Is there enough flexibility out there to meet the requirements?.

J. Spilby: Yes, most companies talk about period of years, it works with about $150.00 a day coverage, if you went lower, the pot of money wouldn't be as much.

Rep. Weisz: Can you buy total dollar coverage?

J. Spilby: Yes you can.

Rep. Weisz: I concerned, if you buy $200,000 work coverage, over what was required, and the limit was $150.00 per day. Is the state required to pick up the balance, even if that person die's within a 12 month period.

J. Spilby: That is a good point, you may need to have a qualifier.

D. Zentner: If protecting $200,000 worth of assets, because you purchased that amount of insurance, until you use your insurance policy, that amount is available. If the bill was $200.00 and insurance paid $150.00, that extra amount will have to come out of the your pocket, we will consider those assets available until the insurance policy is used up.

Rep. Kreidt: Could I buy a policy $300,000 lifetime benefit that paid $300.00 a day?

J. Spilby: Yes, you can, products vary.

Chairman Price: Close hearing on HB 1217.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1217

House Human Services Committee

☐ Conference Committee

Hearing Date January 26, 2005

Tape Number	Side A	Side B	Meter #
#2	x		2039-2900

Committee Clerk Signature

Minutes:

Chairman Price: Opened discussion on HB 1217.

Rep. Weisz: Attached E-mail The only concern to this during our discussion was the base level of $164,250.00, and when the inflate would kick in. In the current bill makes it very clear that when you purchase that, you have to have an inflator. The question that was raised in subcommittee, when the law is passed, get the waiver and it goes into effect and down the road I decide to take out my long term care policy, can I buy $164,250 policy, will I qualify? Or does it have to have already increased by the inflator. It was agreed that the current bill would not require an inflator, so the longer I waited, the better deal I got. This language clarifies that the inflator kicks in when the law goes into effect, so that 10 years from now, the $164,250 plus the 5% compounded over that 10 years will be my base policy, and then again it will have the 5%. This insures that we are not locking in minimum, the dept. thought it said that to begin with, but realized that it needed to be clarified.

Chairman Price: Anything discussed concerning putting more into Sec. 2?

Rep. Weisz: We didn't discuss that with the dept. We did discuss the look back, if we get the waiver, the 5 year will apply.

Chairman Price: We could put in that the dept. will apply for the waiver within 120 days of the effective date.

Rep. Weisz: We will come up with the language.

Rep. Kaldor: I don't disagree on the time line concept, the dept. indicated that they had filed some papers with the Fed's. I would request that they report during the biennium, to HS Budget Committee.

Chairman Price: Look over the two amendments and report back.

Rep. Weisz: We did receive a definition schedule.

Hearing Closed:

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1217

House Human Services Committee

☐ Conference Committee

Hearing Date Feb. 1, 2005

Tape Number	Side A	Side B	Meter #
#1	x		89-910

Committee Clerk Signature

Minutes:

Chairman Price opened discussion on HB 1217.

Rep. Weisz: One of the concerns that was raised, that was a part that we passed last session. Described amendment.

Rep. Weisz: Move to accept the amendment.

Rep. Sandvig: Second

Voice Vote: 12-0-0.

Rep Weisz: Explain second amendment.

Rep. Porter: Will 2005 fall under the category. Does the waiver start in Jan. 2007?

Rep. Weisz: It will be retro active, as long as you took that amount, your covered, and further explained the monetary amounts..

Rep. Weisz: Move to accept the amendment.

Rep. Devlin: Second.

Voice Vote: 12-0-0.

Rep. Weisz: Those are all of the amendments we added, but we did discuss adding tax credits. There was concern that we didn't have enough information and also concerned about the fiscal note and the end results.

Rep. Porter: I would look at it as a fiscal note of zero, it can't go into effect until the waiver is signed. I feel it would be the ideal time to attach it. In the tax committee, they are bringing in 2007 tax situations.

Rep. Nelson: We didn't want to jeopardize a broader approach to that exemption.

Rep. Weisz: Move Do Pass as amended.

Rep. Porter: Second.

Vote: 12-0-0.

Carrier: Rep. Nelson

FISCAL NOTE

Requested by Legislative Council
02/04/2005

Amendment to: HB 1217

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would create and enact a new section to chapter 50-24.1 of the NDCC relating to eligibility for medical assistance benefits and long-term care insurance; would provide for a report; and would provide for an effective date.

Because federal legislation has not been enacted that would allow this, this bill has no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Debra A. McDermott	**Agency:**	Human Services
Phone Number:	325-3695	**Date Prepared:**	02/04/2005

FISCAL NOTE

Requested by Legislative Council
01/07/2005

Bill/Resolution No.: HB 1217

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would create and enact a new section to chapter 50-24.1 of the NDCC relating to eligibility for medical assistance benefits and long-term care insurance.

Because federal legislation has not been enacted that would allow this, this bill has no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Brenda Wiesz	**Agency:**	Human Services
Phone Number:	328-2397	**Date Prepared:**	01/14/2005

Prepared by the Legislative Council staff for
Representative Weisz
January 26, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

Page 1, line 3, after the semicolon insert "to provide for a report;"

Page 2, after line 4, insert:

"**SECTION 2. REPORT TO LEGISLATIVE COUNCIL.** Before November 1, 2005, the department of human services shall report to the legislative council regarding the status of the amendment to the medicaid state plan regarding the disregard of any assets to the extent that payments are made under a long-term care insurance policy or because an individual has received or is entitled to receive benefits under a long-term care insurance policy."

Page 2, line 5, replace "This" with "Section 1 of this Act"

Renumber accordingly

Adopted by the Human Services Committee
February 1, 2005

House Amendments to HB 1217 - Human Services Committee 02/02/2005

Page 1, line 3, after the semicolon insert "to provide for a report;"

Page 1, line 8, after the boldfaced period insert:

"1."

Page 1, line 15, replace "1." with "a."

Page 1, line 19, replace "2." with "b."

Page 1, line 23, replace "one hundred sixty-four thousand two hundred fifty dollars" with "the total asset protection amount in effect at the time of purchase"

House Amendments to HB 1217 - Human Services Committee 02/02/2005

Page 2, after line 2, insert:

"2."

Page 2, after line 4, insert:

"3. As used in this section, "total asset protection amount" means a maximum benefit equal to one hundred sixty-four thousand two hundred fifty dollars for policies purchased during 2005 and that amount plus an additional five percent compounded annually for policies purchased in any year after 2005.

SECTION 2. REPORT TO LEGISLATIVE COUNCIL. Before November 1, 2005, the department of human services shall report to the legislative council regarding the status of the amendment to the medicaid state plan regarding the disregard of any assets to the extent that payments are made under a long-term care insurance policy or because an individual has received or is entitled to receive benefits under a long-term care insurance policy."

Page 2, line 5, replace "This" with "Section 1 of this"

Renumber accordingly

Date: 2/1/05

Roll Call Vote #: 1 - 12-0-0 1st Amd
2 - 12-0-0 2nd Amd
3 - 12-0-0

2005 HOUSE STANDING COMMITTEE ROLL CALl
BILL/RESOLUTION NO. HB 1217

House **Human Services** **Committee**

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Rep. Weisz Seconded By Rep Porter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. **Price**	✓		Rep.L. **Kaldor**	✓	
V Chrm.G. **Kreidt**	✓		Rep.L. **Potter**	✓	
Rep. V. **Pietsch**	✓		Rep.S. **Sandvig**	✓	
Rep.J.O. **Nelson**	✓				
Rep.W.R. **Devlin**	✓				
Rep.T. **Porter**	✓				
Rep.G. **Uglem**	✓				
Rep C. **Damschen**	✓				
Rep.R. **Weisz**	✓				

Total Yes 12 No 0

Absent 0

Floor Assignment **Rep.** Nelson

If the vote is on an amendment, briefly indicate intent:

12-0-0 1) 1st AMEND - Notification - motion Rep W - 2nd Rep Sandvig - 12-0-0 -
12- 2nd AMEND - replace protection amount - motion Rep Weisz 2nd Rep Devlin

REPORT OF STANDING COMMITTEE

HB 1217: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1217 was placed on the Sixth order on the calendar.

Page 1, line 3, after the semicolon insert "to provide for a report;"

Page 1, line 8, after the boldfaced period insert:

"1."

Page 1, line 15, replace "1." with "a."

Page 1, line 19, replace "2." with "b."

Page 1, line 23, replace "one hundred sixty-four thousand two hundred fifty dollars" with "the total asset protection amount in effect at the time of purchase"

Page 2, after line 2, insert:

"2."

Page 2, after line 4, insert:

"3. As used in this section, "total asset protection amount" means a maximum benefit equal to one hundred sixty-four thousand two hundred fifty dollars for policies purchased during 2005 and that amount plus an additional five percent compounded annually for policies purchased in any year after 2005.

SECTION 2. REPORT TO LEGISLATIVE COUNCIL. Before November 1, 2005, the department of human services shall report to the legislative council regarding the status of the amendment to the medicaid state plan regarding the disregard of any assets to the extent that payments are made under a long-term care insurance policy or because an individual has received or is entitled to receive benefits under a long-term care insurance policy."

Page 2, line 5, replace "This" with "Section 1 of this"

Renumber accordingly

2005 SENATE HUMAN SERVICES

HB 1217

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1217

Senate Human Services Committee

❑ Conference Committee

Hearing Date March 2, 2005

Tape Number	Side A	Side B	Meter #
1		x	2345 - end
2		x	3429 - 3800

Committee Clerk Signature

Minutes:

Chairman Judy Lee opened the hearing on HB 1217, a bill relating to eligibility for medical assistance benefits and long-term care insurance. All members were present.

Representative Keiser introduced the bill. He explained the history of the bill. Last session for some reason, the house leadership sent to Industry, Business and Labor a bill on annuities. The industry, estate attorneys and estate planners came forward with a bill that would have allowed people to establish an annuity if one of the partners in a marriage was facing a nursing home, they could use it to support them in their life and yet still become eligible for Medicare and Medicaid payments while outside the nursing home. It was an interesting bill with impressive testimony from a young, older woman who told her story. She wanted to set up an annuity. The present standards of $80,000 in assets and your home and car and the committee looked at someone who has to pay maintenance, property tax and utility bills on their home, the current system does require them to spend their assets down to an unreasonable point. So, the Industry, Business and Labor committee passed the bill. In the interim, there were some issues. The Department of Human Services really struggled with interpreting the legislative intent of the bill and several cases came up where concerns were expressed on both sides. Frequently, because his committee heard the bill, they contacted him with these questions. In that process, something struck him. Every time he met with Department of Human Services and the estate planners and estate attorneys he realized what they have established from a policy standpoint is one of the most adversarial relationships imaginable. On the one hand we have people telling their clients to divest themselves of their estate so the state won't take it and on the other side of the coin we have a Department of Human Services whose budget is going through the roof and think they should extend the claw back to five years. This makes it more adversarial. In working with both sides, they developed a package of legislation and this committee has already heard two of the bills, one was the funeral expense bill. This bill was modeled after the Indiana bill and it turns out this committee heard a very similar bill last session. Five states were given a waiver by the federal government to go out and be creative and see how they can address these larger issues. Indiana was one of those states and one of the most successful. The bill states if residents of North Dakota buy an adequate amount of long term care insurance, with an inflator, their entire estate will be exempted from consideration from recovery, it will be exempted. That would put financial planners and estate attorneys into the position of being sales representatives for the state of North Dakota, their fiduciary responsibility would be to tell their clients to buy adequate long term care insurance and do it at a reasonable age. This is what motivated him in introducing this bill. We still will require a waiver from the federal government. All of his correspondence with the regional office in Denver indicates the federal government is moving towards providing more waivers for the state and states are clamoring for them. We need to pass the bill and apply for a waiver and if its granted, we can enact it. He finds it unacceptable to approach waivers from the standpoint of writing a letter to make a request. As he told the leadership in the House, he is prepared to spend his own money, he is prepared to get on a plane, he is prepared to go to Denver and Washington. Our Governor and Congressmen can arrange those meetings. He will go after the waiver with a vengeance. For the citizens and budgets of North Dakota, this is one of the most positive things we could do. He wants to publicly thank Melissa, Dave, Curtis, Carol, Toby and the others from Department of Human Services. They have had some interesting meetings and they have been terrific in addressing this issue in a more global sense.

Senator Brown said he was part of the bill last session. He did not follow it during the interim, it went no where, is that accurate?

Representative Keiser said that is accurate. He doesn't know if we ever applied for the waiver. He doesn't think sending a letter will do it. His going to Denver and Washington may not do it either but he will feel better about it.

Senator Brown said its a good concept.

Representative Weisz testified in favor of the bill. (meter 3613) He introduced a similar bill last session, this bill is a little better, simpler and cleaner. The bill last session was passed and the waiver was never officially applied for. In the new $60 billion reduction program in Medicaid, one of the main points is the federal government was encouraging exactly what we have before us. They want states to look at alternatives to long term care we are currently paying under Medicaid. If we aggressively pursue a waiver, we are probably going to get one because the administration is now looking at them as a cost savings. The House made a few changes, the bill starts out at $164,250 and has a 5% inflator. One change they made was the policy cost also goes up by 5% per year plus the policy has to have a 5% inflator in it. Due to their frustration with the previous bill, they also added a requirement for the Department of Human Services to report back about the process of requesting the waiver. Its been a long road.

David Zentner, Director of Medical Services for the Department of Human Services, appeared to provide information about the bill. (written testimony) (meter 4135).

Senator J. Lee asked how the $164,250 was determined.

Mr. Zentner said that is the average cost in the state for three years of coverage.

Senator Warner said he was offended in his 40's when offered this kind of policy and in retrospect it may have been a good idea. There was a continuum of care that did not include long term care, does the policy specified in this bill include the whole continuum?

Mr. Zentner said the amount specified in the bill would be for the whole continuum of care, and a person could use the $164,250 for varying levels of care and when its gone you could go on the Medicaid program and their assets would be protected.

Senator Warner said Shelly said this morning the average length of stay is 96 days and the longest 210 days. She said that was admissions last year that left last year.

Mr. Zentner said he would caution the committee that 96 days is not the actual overall average, but the average length of stay has come down, we were at three years at one time and the average is now closer to one, one and a half years.

Norbert Mayer, North Dakota Association of Insurance and Financial Advisors, testified in favor of the bill. (meter 5131) This is a good step forward. In the long run it will be a good approach and will certainly save the state some money in the Medicaid budget. Regarding the

$164,250, a plan that would pay up to $150/day for a maximum of three years would total $164,250. A client could also opt for a plan that pays longer but for a lower per day payment.. Most plans are reimbursement plans. If your stay starts at home and you utilize $50 per day, you would use some of this pot of money. By moving to home care to assisted living and ultimately to a nursing home, this could provide 4 or 5 years of coverage. It is still going to be a challenge, the premium is still substantial but the benefits are substantial. The 5% inflator is important, it is close to the annual rate of inflation for nursing home care. Yet, it means that every 14 1/2 years, it doubles. That is where the cost of the premium comes in. If a 42 year old couple would purchase the plan, it would cost $170/month or $2000/year. It would cost a 55 year old couple $220/month or $2628/year. At the age of $65 the cost would be $350/month or $4200/year. One month in the nursing home would pay $4500 so that is why the premiums are high. This will give financial planners a valuable tool to be advocates for the state of North Dakota by recommending clients protect their assets in this way. Many residents would chose this option because there is pressure to pass on assets but there are a lot of horror stories, too, about elderly people who pass on their assets with the understanding the children will take care of them and this doesn't happen.

Senator J. Lee said she heard something on the radio about long term care insurance that said its an important tool for those with middle of the road assets. We heard in testimony earlier that the very wealthy are not taking advantage of this program as feared. They are perfectly capable of affording their own long term care for the length of time they might need it. They would not be a likely long term care purchaser.

Mr. Mayer said in general that is what happens. There is a level at which people say they can afford to pay these costs on their own.

Senator J. Lee said she thought this could be a reason that in the states where the study occurred, this plan was not abused by the very wealthy.

Mr. Mayer said in the case of the very wealthy, they would need to purchase unlimited plans to protect their assets and they are very expensive. This would give them an alternative.

Shelly Peterson, Long Term Care Association, testified in favor of the bill. (meter 6040) What we keep hearing over and over is we need to look at is sustainability. This is some of the best legislation we could have to look at the issue of sustainability. The legislature passed very similar legislation in the early '90's so that North Dakota could get into the partnership program. Prior to its implementation the Waxman amendment came around in Congress, authored by a Congressman who did not like the program. This attitude has changed and the administration is interested in states pursuing the partnership program.

Chairman Judy Lee closed the hearing on HB 1217.

Chairman Judy Lee opened the discussion on HB 1217 when the committee reconvened. (tape 2, side B, meter 3429) This is the long term care bill that Representative Keiser was so enthusiastic about.

Senator Warner said there have been about 2000 of these accounts had been activated and only 86 had expended all the money, were the others still in the process of reaching the limit or did the policy holders die?

Senator J. Lee said he was talking about the California program, it was in the partnership program.

Senator Warner clarified that Mr. Zentner indicated the average stay is 1 1/2 years and these policies last 3 years.

Senator J. Lee said it could stretch longer if care starts as home care.

Senator Brown moved a do pass on HB 1110.

Senator Warner seconded the motion.

The motion passed on a roll call vote, 5-0-0.

Senator Brown will carry the bill.

Date: 3-2-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1217

Senate **Human Services** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen Brown Seconded By Sen Warner

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Brown

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1217, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1217 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1217

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

REGARDING HOUSE BILL 1217

JANUARY 19, 2005

Chairman Price, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you to provide information about this bill.

This proposed legislation would exempt the assets for the purposes of determining eligibility for the Medicaid program, for individuals who purchased adequate long-term care insurance coverage as defined in Section 1.

At the present time there are four states with partnership programs similar to this proposed legislation. They are New York, California, Indiana, and Connecticut. Congress authorized this program, but later rescinded the law because of concern that wealthy individuals would manipulate the system by using the plans to protect their large asset base, and then use Medicaid funds that should be reserved for low-income households. At that time only the four states listed above had received approval, and they were allowed to continue the program while all other states were unable to begin a similar program.

Congress has been asked to revisit this issue, and a bill was introduced in the last session to permit other states to administer the partnership program. The proposal was prompted by the fact that the experience in the four states that have the program, did not show that individuals with large asset bases were using the program. Congress did not act on the proposal; but it is likely it will again be considered in the new session of Congress.

Indiana currently sponsors a plan similar to the one proposed in this bill. It allows a dollar for dollar asset offset for policies, that provide protection at less than the maximum prescribed benefit, and full asset protection for policies that meet or exceed the maximum benefit. If you purchase long term care insurance in 2005, you would need a policy that provided $196,994 in coverage indexed forward at least at a 5% compounded rate. The maximum insurance amount increases for each year. For example, if the insurance is purchased in 2006, the maximum required coverage is raised to $206,844 in order to account for increased costs.

Paragraph 2 of Section 1 specifies on lines 22 and 23, that the maximum benefits at the time of purchase are at least $164,250. We would suggest that you consider indexing the maximum by a yearly amount. The state of Indiana used a 5% factor for each subsequent year.

The Department would submit a state plan amendment as required in Section 2 of this bill, only if Congress authorizes states to implement this partnership program.

I would be happy to respond to any questions you may have.

Members of the House Human Services Committee,

Although I am a member of the Governor's Committee on Aging, we did not have time to fully discuss all of the proposed legislation. Therefore my support for **HB1217, HB1281 & HB1249** is not meant to be considered an endorsement nor opposition by the GcoA.

Medicaid is meant to be a program for those who need it, not those who have figured out the best way to qualify. Attorneys who specialize in Medicaid planning circumvent this intent and often can do harm to their clients. With other proposals in the legislature to expand what Medicaid may pay for it is vital that those who receive this state benefit be deserving of it. Arizona thought that they could save money by paying for care other than in a nursing home but found that the state then suffered from what became to be known there as the "woodwork effect". This put a negative pressure on the purchasing of private LTC insurance. The number of people applying for Medicaid rapidly increased. We need to learn from Arizona and Florida. Arizona later made the corrections similar to these three bills.

HB1281 & H1249 both are good measures to see that Medicaid is used for those it is intended and also to discourage people trying to dispose of assets just to increase their children's inheritance at taxpayer expense.

HB1217 is a much needed correction towards defining what type of LTC insurance that should be encouraged. The old definition was of $130/day coverage with a three year minimum. No inflation rider was required. This allowed a thirty year old to be given credit on a claim when he would be 70. It did not protect someone who purchased a (ex) 4 year, $120/day with inflation plan. Attorneys would encourage people to apply for the inferior 3 year coverage. As proposed in **HB1217** this practice would be corrected. The larger percentage of our total population, not just seniors, who take on the responsibility themselves for long term care, the better North Dakota will be.

There is a question that I have on **HB1217,** page two, line 1-2. If some one had coverage of $150/day, inflation and *lifetime coverage,* they will never exhaust their benefits. If their care costs $170/day they will have to dip into their personal savings to cover the difference. Someone with a five year benefit period would be covered by the exemption even though it will cost the state budget $54000 more in years 6 plus. State law should not discourage people from covering themselves while at the same time potentially costing the state more money.

I feel that all three of these bills promote fairness, encourage self reliance and save the state money. Money saved that could be used to pay for those who deserve the benefits and also to help increase wages of caregivers in North Dakota. Without these three bills, North Dakota could be headed towards a financial disaster that will swamp the overall budget.

Respectfully,
Kelly B Wentz
January 18, 2005

Price, Clara Sue

[redacted]m: Hauer, Melissa A.
[redacted]: Wednesday, January 26, 2005 8:13 AM
[redacted] Price, Clara Sue; Weisz, Robin L.; Nelson, Jon O.; Sandvig, Sally M.
Cc: Olson, Carol K.; Zentner, David J.; Volesky, Curtis A.
Subject: Proposed amendment to HB 1217

HB 1217
ıdment.doc (1!

Representatives Price, Weisz, Nelson and Sandvig,

Attached please find a proposed amendment to House Bill no. 1217. It would amend subsection 2 of section 1 to read:

2. The total assets an individual owns and may retain and still qualify for medical assistance benefits at the time the individual applies for benefits must be disregarded if the individual is the beneficiary of a long-term care insurance policy that meets the requirements of this section, provides maximum benefits at the time of purchase of at least one hundred sixty-four thousand two hundred fifty dollars the total asset protection amount in effect at the time of purchase, and includes a provision under which the daily benefit increases by at least five percent per year compounded at least annually, and that individual has exhausted the benefits of the long-term care insurance policy. As used in this section, "total asset protection amount" means a maximum benefit equal to one hundred sixty four thousand two hundred fifty dollars for policies purchased during 2005 and an additional 5% compounded each year for policies purchased thereafter.

[redacted]s amendment is designed to make it clear that the total benefit amount of long term [redacted]e insurance policies will inflate by 5% compounded annually for those individuals who wish to purchase enough insurance to cover all of their assets for Medicaid eligibility.

I also researched N.D.C.C. section 50-24.1-02.5 (the bill sponsored by Rep. Weisz last session), which deals with the effect of purchase of long term care insurance on disqualifying transfers and I do not see a need for that to be repealed if House Bill 1217 passes. That statute deals with disqualifying transfers of assets and HB 1217 provides an exception to the asset limit if a certain amount of long term care insurance is purchased.
So, I do not believe that these would conflict.

Please feel free to contact me if you have any questions or concerns.
Thank you.

(See attached file: HB 1217 amendment.doc)

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

Page 1, line 23, replace "one hundred sixty four thousand two hundred fifty dollars" with "the total asset protection amount in effect at the time of purchase"

Page 2, after line 2, insert "As used in this section, "total asset protection amount" means a maximum benefit equal to one hundred sixty four thousand two hundred fifty dollars for policies purchased during 2005 and that amount plus an additional 5% compounded annually for policies purchased in any year after 2005."

Renumber accordingly

58243.0101
Title.

Prepared by the Legislative Council staff for
Representative Weisz
January 26, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

Page 1, line 3, after the semicolon insert "to provide for a report;"

Page 2, after line 4, insert:

"**SECTION 2. REPORT TO LEGISLATIVE COUNCIL.** Before November 1, 2005, the department of human services shall report to the legislative council regarding the status of the amendment to the medicaid state plan regarding the disregard of any assets to the extent that payments are made under a long-term care insurance policy or because an individual has received or is entitled to receive benefits under a long-term care insurance policy."

Page 2, line 5, replace "This" with "Section 1 of this Act"

Renumber accordingly

58243.0102
Title.0200

Prepared by the Legislative Council staff for
Representative Weisz
January 26, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

Page 1, line 3, after the semicolon insert "to provide for a report;"

Page 1, line 23, replace "one hundred sixty-four thousand two hundred fifty dollars" with "the total asset protection amount in effect at the time of purchase"

Page 2, after line 2, insert:

"As used in this section, "total asset protection amount" means a maximum benefit equal to one hundred sixty-four thousand two hundred fifty dollars for policies purchased during 2005 and that amount plus an additional five percent compounded annually for policies purchased in any year after 2005."

Page 2, after line 4, insert:

"**SECTION 2. REPORT TO LEGISLATIVE COUNCIL.** Before November 1, 2005, the department of human services shall report to the legislative council regarding the status of the amendment to the medicaid state plan regarding the disregard of any assets to the extent that payments are made under a long-term care insurance policy or because an individual has received or is entitled to receive benefits under a long-term care insurance policy."

Page 2, line 5, replace "This" with "Section 1 of this Act"

Renumber accordingly

The first sheet is the final combined amendment. The other 2 are the 2 separate ones that were put together to make the final amendment. I hope this is everything you need. If not let me know Luke

Attachment 1

TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE

REGARDING HOUSE BILL 1217

MARCH 2, 2005

Chairman Lee, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you to provide information about this bill.

This proposed legislation would exempt the assets for the purposes of determining eligibility for the Medicaid program, for individuals who purchased adequate long-term care insurance coverage as defined in Section 1.

At the present time there are four states with partnership programs similar to this proposed legislation. They are New York, California, Indiana, and Connecticut. Congress authorized this program, but later rescinded the law because of concern that wealthy individuals would manipulate the system by using the plans to protect their large asset base, and then use Medicaid funds that should be reserved for low-income households. At that time only the four states listed above had received approval, and they were allowed to continue the program while all other states were unable to begin a similar program.

Congress has been asked to revisit this issue, and a bill was introduced in the last session to permit other states to administer the partnership program. The proposal was prompted by the fact that the experience in the four states that have the program did not show that individuals with large asset bases were using the program. Congress did not act on the proposal; but it is likely it will again be considered in the new session of Congress. The Bush administration also proposed to allow states to implement the partnership program as part of their proposed initiative to reduce the cost of the Medicaid program.

Indiana currently sponsors a plan similar to the one proposed in this bill. It allows a dollar for dollar asset offset for policies that provide protection at less than the maximum prescribed benefit, and full asset protection for policies that meet or exceed the maximum benefit. If you purchase long-term care insurance in 2005, you would need a policy that provided $196,994 in coverage indexed forward at least at a 5% compounded rate. The maximum insurance amount increases for each year. For example, if the insurance is purchased in 2006, the maximum required coverage is raised to $206,844 in order to account for increased costs.

The Department would submit a state plan amendment as required in Section 2 of this bill, only if Congress authorizes states to implement this partnership program.

I would be happy to respond to any questions you may have.