2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2272

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2272

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 26, 2009

Recorder Job Number: 7758

Committee Clerk Signature Ena Luckelt

Minutes:

Chairman Klein: We're going to open the hearing on Senate Bill 2272.

Senator O'Connell: This bill is being brought for a ranger that had his leg taken off and there is a new device for his leg and we would like to see him get that.

Chairman Klein: We will here from those that are here today and reschedule for the expert.

Bill Heitmann, Prosthesis: This bill is similar to ones in other states. When I pay for insurance I expect to have the same quality of life as before the accident. It is not always the same with prosthetics. There will probably be a cap. Medicare and Medicaid pay for the new technology that has come about because of the loss of limbs of the veterans.

Chairman Klein: What does the bill do?

Bill: It has the insurance paying for the original and then the upgrade. We have many patients here ready to testify about what they have gone through and the quality of life they could have with the new technology.

Discussion followed about the cost of the different prosthetics available.

Testimony given by Guy Wills, Steve, and Jim Cook, about the loss of a limb and what they have gone through in trying to receive a better prosthesis, the problems with the one they currently have and the desire to have a better quality of life, which would come with an

upgrade or replacement of the old prosthesis. They also talked about how it has affected their ability to work.

Rod St.Aubyn, Blue Cross and Blue Shield of ND. Written Testimony Attached. In opposition.

Senator Potter: It would cost one dollar a month and people could have a better quality of life?

Rod: It would exceed that.

Chairman Klein: We will have to address this again. Committee we will do some checking for the next hearing. The bill went to the US Senate today. We will close the hearing .

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2272

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8368

Committee Clerk Signature Era Liekelt

Minutes:

John J. Rush, M.D., Chief Medical Officer, Hanger Orthopedic Group Inc.:

Written Testimony Attached.

Chairman Klein: Are committee has submitted to the legislative counsel, this particular bill which needs to be reviewed because it's a mandate. They submitted moving it on to Millaman and we are waiting on their response before we can take any action. We will be having further testimony tomorrow and if there are any questions?

Senator Horne: You said something that I didn't quite understand. You said the goal is to move it from one category of the insurance coverage to another category and I didn't get all the categories written down. Could you explain which categories and why?

John J. Rush, M.D.: Currently just by history prosthetics are currently covered under durable medical equipment and all the bill does in the eleven states that have passed it and the twenty nine that are introducing it is move prosthetics out from D.M.E. and treats it just like any other medical or surgical benefit in the policy. They don't say you can have one heart attack per life time or one heart attack per year. They don't say you can have one hip replacement that cost up to fifty thousand dollars. Again if you needed a hip replacement and had to have a redo, five or ten years later they would pay for that. If you're driving home from here this afternoon, you

lose your leg in a car accident they pay for your surgery pay for the rehab and why would they stop short when you come to see us to give you a leg so you can walk around. They'll give you a wheelchair so you can obese and diabetes and depression. All people want is an arm or a leg so they can hold their loved ones or go back to work.

Chairman Klein: You mentioned and clarify this for me that Medicare and Medicaid and the Federal Employees health insurance plans pay and cover all prosthetics without caps and restrictions. I was under the understanding that there is a four or five question test to be able to qualify totally for that.

John J. Rush, M.D.: One of the issues that the insurance companies have is that if you pass this bill everybody is going to get the latest and greatest. Medicare and if you look on page two of the last bill which was Maryland it gives you those K level under Medicare standards. K – Zero, one, two, three, four. If you're a ninety four year old diabetic bed bound nursing home patient and have an amputation you don't even qualify for a prosthetic device so what the bill reference is the Medicare which is only national standard we have. So we take away that fear or concern and I think that's what's coming from that health insurance lobbyist is doing to you. What they're saying is if you pass this bill everybody is going to get a microprocessor. It simply isn't true. And this hasn't been the case with the states that have passed this bill.

Chairman Klein: Any other questions for the Doctor?

John J. Rush, M.D.: I understand I might be mistaken that the Blue Cross and Blue Shield made the statement that their medical loss ratio was over a hundred percent. I don't know what it was for 2008 but this is off their web site for 2007 they had an excess of eighty four million one hundred and thirty eight thousand dollars for a medical loss ratio of 89.7 %. For every dollar they paid in they paid out. This is the quote from their end of the quarter, Blue Cross and Blue Shield of North Dakota paid more than eight hundred and seventy eight million dollars in health care claims or 89.7 % of every premium dollar. So every dollar you paid in premiums

they paid that out. I was under the impression that you were told that they paid out more than they took in.

Chairman Klein: We can look at that but it almost relates to another bill where we are studying the loss ratio issues.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2272

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8485

Committee Clerk Signature Eva Riekelt

Minutes:

Chairman Klein: Committee I know there has been some confusion on this particular issue, we've heard it and heard it some more and squeezed in some information yesterday. I believe we're down to some information that we believe that we have our last. I scheduled this today for the gentleman that came yesterday. We will now go to Mr. St. Aubyn; you can give us some information about what we can do here.

Rod St. Aubyn, BC/BS of ND: Written Testimony Attached.

Senator Behm: Help me understand the "C" leg, is there such a difference in how they perform or what is it?

Rod: I am not an expert in that, there is numerous different types of micro processors base not just the leg but also the arms. In fact the USA Today, are medical director was telling me yesterday, they were advertizing or not advertizing, they talked about one that was like 1.2 million dollars.

Senator Behm: If I was strapped with not having a leg or something, I would want the very best I could get. I could see where the 1.2 million dollars is out of reach.

Rod: What happens is under the Medicare rules, I got some stuff on it I could make copies if you wish, but it's everything from CMF documentation for local coverage determination. They

have different levels its clinical assessments; it says the patient potential rehabilitation potential must be based on the following classification levels. Level zero does not have the ability or potential to ambulate or transfer safely with or without assistance and the prosthesis does not enhance his quality of life or mobility. Level one has the ability or potential use prosthesis for transfers. I won't go through all of them but you can see what Medicare does is go through an evaluation of the functional capabilities they have. The top one is level four, has the ability or potential for a prosthetic ambulation that exceeds basic ambulation skills, exhibiting high impact stress or energy levels. Typical of the demands of the child active adult or athlete. So I think what will happen in your particular situation you may say yes I would like to have that "C" leg but in reality what happens is Medicare would determine what your functional capabilities are. So for example let's say someone's in a wheelchair basically confined to a wheelchair and they really could not utilize the "C" leg very well. Medicare would not approve that particular thing. So I don't know if that answers your question.

Senator Behm: You see these guys on television they run and do everything; I mean that would be an expensive leg, prosthesis.

Rod: I think testimony has said that some of these "C" legs and the different components with it are in the neighborhood of forty to fifty thousand dollars. But the technology is changing rapidly and there are different types and like I said the USA Today they were talking about this one with the department of defense or veterans services or something. They were talking about the one that was 1.2 million dollars.

Chairman Klein: I am sure we can have a variety of lines of "C" legs with different styles and different costs. I don't know if there is a lot of competition yet in that area. We see that it's the entire one price right now because of the new technology. Is that maybe correct?

Rod: I believe that's right but there is so much changing in the market, there is new models coming out all the time. It isn't just the "C" leg there are other components as well that they're making improvements. It's a vast change from even ten years ago, even five years ago.

Senator Behm: Just a comment, I got a granddaughter that's a doctor of physical therapy and she just came back from Iraq and she said it's amazing what some of these people can do with their prosthesis.

Chairman Klein: Rod we're going to try to wrap it up here and I guess I have two concerns, one is it has an appropriation that we need to get it down the hall. Two we are still waiting for the counsel to report back with the Millaman report which I have not heard. I am going to just stick our neck and we're going to act on this if we can and move it forward. If the report shows up during the appropriations process we'll get it to them and they can make whatever recommendation that they need to from that report. We want to pass something to the senate and keep it moving and if it needs to be changed some more we'll let the house work on it. I am under the gun.

Senator Potter: If we go to do pass would we refer it to appropriations?

Chairman Klein: That's correct.

Senator Andrist: I will move the amendment. I think we need to keep it alive and there are three more opportunities for them to make their case.

Seconded by Senator Nodland

Chairman Klein: Committee do you understand the intent of the amendments? These are not legislative counsel draft amendments but we want the committee to understand.

Senator Horne: I am trying to refocus on this issue. Looking back in my notes it appears to me that there are two main issues here. One is what Rod talked about whether the individual doctor or treating physician should have the authority to order the prosthetic, which Blue Cross

disagrees with. Secondly on whether there should be caps on insurance payments. Do I have that right; are those the two main issues we are dealing with on these amendments?

Chairman Klein: The issue that deals with mandates on is health care programs in the state and the law that we passed that requires us to have the outside actuary determine the cost and then it has to be applied to purrs for two years.

Rod: According to the existing law what happens on, first of all you're suppose to get an analyses and the committee suppose to have that analyses sometime. Unfortunately with the process and timing you're not going to get that. Then what happens is applied to purrs for a period of two years and then at the end of two years purrs is suppose to come back and remove, there's a sunset law or expiration on the bill is the way it's supposed to be written. Then what they do is they come in with a bill that basically takes away that expiration date and so it applies to purrs continually thereafter and applies to all other health insurance. Now as far as are, aside from that nothing's going to change we will still cover the micro processor base leg, we will still have the sixteen thousand and six thousand that's in addition to the micro processor knee, so that's not part of that. We will still provide that immaterial of that it's only applied to purrs we're not going to change that.

Senator Potter: As I read this I don't know that adding language about purrs is necessary to this bill. It seems that purrs can handle in the interim they'll see that they need to do that because the sunset and if that's going to continue there going to have to do it. All I am saying is the language of the first three amendments is pretty clear, taking out the annual cap leaving in the lifetime. And then we're deleting that very troublesome section I believe on just having to make this determination and the insurance company has to pay for it. All of those improve the bill and if that is the sense of the amendments is that we're moving those three changes on line two or page two then I am all for it.

Rod: If you do that you're not really abiding by the current law. Granted you could go against that there is no question about it and you can sit there and say we're going to ignore that. The negative part of that is your not really giving what the concept of that mandate review was suppose to be what the true cost is. You know and you'll be able to get that from the purrs thing and other insures will be applied to other insures in two years.

Chairman Klein: Committee I am not sure what okay we see the report we see the actuary analyzes and then what do we do? We're still in this two year. I kind of am of the opinion that I'd like to leave this just to keep it going here. I don't know that it's really pretty and whether or not it is really how it applies but Senator Andrist, do you feel the same that you have moved on the amendment you'd like to keep that portion in and let's work it out as we go through it. Committee we can spend over night working on it to but we have to get it done tomorrow.

Senator Andrist: I questioned that last provision myself but like I said I want to keep it alive in the best form we can and there is going to be three other committees look at this before it comes out so what we do here is just moving the process forward.

Chairman Klein: Committee any other discussion, hearing none the clerk will call the role for a do pass on amendments as proposed by Rod St. Aubyn.

Chairman Klein: Committee the amendments passed.

Senator Andrist : I move to do pass on the bill as amended.

Senator Wanzek: I second the motion.

Chairman: Do pass as amended and re-refer to appropriations. Senator Behm do you want to carry the bill.

Senator Behm: I will do my best.

FISCAL NOTE

Requested by Legislative Council
02/09/2009

REVISION

Amendment to: SB 2272

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$47,586	$30,263	$47,586	$30,263
Appropriations			$47,586	$30,263	$47,586	$30,263

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$12,170	$6,693	$8,111	$12,170	$6,693	$8,111

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The fiscal impact of this bill is the proposed enhancement of the prosthetics benefit in the PERS health plan.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill is the proposed enhancement. The above fiscal impact is the additional premium and expense needed to support this improvement as determined by BCBS.

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.*

As amended BCBS has determined that the estimated additional cost to add this benefit is $0.28 per contract per month.

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The appropriations are to support the expenditures as noted in "B" above.

Name:	Sparb Collins	**Agency:**	PERS
Phone Number:	701-328-3901	**Date Prepared:**	02/08/2009

FISCAL NOTE

Requested by Legislative Council
02/06/2009

Amendment to: SB 2272

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$47,586	$30,263	$47,586	$30,263
Appropriations			$47,586	$30,263	$47,586	$30,263

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$12,170	$8,111	$6,693	$12,170	$8,111	$6,693

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The appropriations are to support the expenditures as noted in "B" above.

Name:	Sparb Collins	**Agency:**	PERS
Phone Number:	701-328-3901	**Date Prepared:**	02/08/2009

90084.0201
Title. Adopted

Prepared by the Legislative Council staff for
Senate Industry, Business and Labor
February 3, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2272

Page 1, line 1, remove "chapter 26.1-36 and a new section to"

Page 1, line 2, after "for" insert "public employees retirement system"

Page 1, line 3, replace "and" with "to require a report regarding coverage of prosthetics;" and after "appropriation" insert "; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 17

Page 2, replace lines 20 through 23 with:

"**Insurance to cover prosthetics.**

1. As used in this section, "prosthetics" means artificial legs, arms, or eyes. The term includes prosthetic replacements if required because of a change in the covered individual's physical condition, as set forth under title 42, United States Code, section 1395x(s)(9).

2. For all contracts or plans for health insurance which become effective after June 30, 2009, and which do not extend past June 30, 2011, the board shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 which provides coverage for prosthetics which at a minimum equals the coverage provided for under the federal medicare program under title 42, United States Code, sections 1395k, 1395l, and 1395m, and title 42, Code of Federal Regulations, sections 414.202, 414.210, 414.228, and 410.100, as applicable to this section.

3. The coverage required under this section:

   a. May require prior authorization for prosthetics in the same manner that prior authorization is required for any other covered benefit.

   b. May impose copayment and coinsurance amounts on prosthetics, not to exceed the copayment and coinsurance amounts imposed under part B of the federal medicare fee-for-service program, under title 42, United States Code, chapter 7, subchapter XVIII, part B.

   c. Must reimburse for covered prosthetics at a rate that is no less than the fee schedule amount for such prosthetics under the federal medicare reimbursement schedule, under title 42, United States Code, chapter 7, subchapter XVIII.

   d. May not impose any lifetime dollar maximum on coverage for prosthetics other than a lifetime dollar maximum that applies in the aggregate to all terms and services covered under the policy, contract, or evidence of coverage.

e. Must provide for repair or replacement of prosthetics if repair or replacement is determined appropriate by the covered individual's treating physician.

f. Must provide for the most appropriate prosthetic model that adequately meets the medical needs of the covered individual as determined by the covered individual's treating physician.

SECTION 2. PUBLIC EMPLOYEES RETIREMENT SYSTEM - COVERAGE OF PROSTHETICS. Pursuant to section 54-03-28, the public employees retirement system shall prepare and submit for introduction a bill to the sixty-second legislative assembly to repeal the expiration date for section 1 of this Act and to extend the prosthetics coverage to apply to all group and individual health insurance policies. The public employees retirement system shall append to the bill a report regarding the effect of the prosthetics coverage requirement on the system's health insurance programs, information on the utilization and costs relating to the coverage, and a recommendation on whether the coverage should continue."

Page 2, line 28, replace "2" with "1"

Page 5, after line 4, insert:

"**SECTION 3. EXPIRATION DATE.** Section 1 of this Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

Adopted by the Industry, Business and Labor Committee

February 4, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2272

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   c. Must reimburse for covered prosthetics at a rate that is no less than the fee schedule amount for such prosthetics under the federal medicare reimbursement schedule, under title 42, United States Code, chapter 7, subchapter XVIII.

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page(s) missing

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Date: 2/3/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2272

Senate **Industry, Business and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendments 90084.0202

Action Taken ☑ **Pass** ☐ **Do Not Pass** ☐ **Amended**

Motion Made By _____ Seconded By _____

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek – V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

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Date: 2/3/09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2272

Senate **Industry, Business and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ **Pass** ☐ **Do Not Pass** ☒ **Amended**

Motion Made By _____ Seconded By _____

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek – V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Behm

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

[illegible]

REPORT OF STANDING COMMITTEE

SB 2272: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2272 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "chapter 26.1-36 and a new section to"

Page 1, line 2, after "for" insert "public employees retirement system"

Page 1, line 3, replace "and" with "to require a report regarding coverage of prosthetics;" and after "appropriation" insert "; and to provide an expiration date"

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Page 2, line 28, replace "2" with "1"

Page 5, after line 4, insert:

"**SECTION 4. EXPIRATION DATE.** Section 1 of this Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

2009 SENATE APPROPRIATIONS

SB 2272

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2272

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 9037

Committee Clerk Signature Rose Laning

Minutes:

Chairman Holmberg called the committee hearing to order on SB 2272 relating to parity for health insurance coverage of prosthetics.

Rod St.Aubyn, Blue Cross/Blue Shield of ND, The bill mandates health insurance coverage for prosthetics to be comparable to Medicare. There are some other things on here that are contradictory to Medicare. Basically allows prosthetic replacements or repairs is really based on what the treating physician and does not take into account what Medicare rules say about being medically appropriate or necessary. The appropriation was based on the original bill. The Industrial, Business and Labor Committee amended this to conform more to what the Medicare rules are. They also amended it to comply with the current state law that basically says that any health insurance mandate has to apply to PERS first , then get it through cost benefit analysis and then during the next session it applies to all insurers. As a result of passage, Spire has asked our company to do reassessment of the appropriation. After the amendment it drops it down to 28 cents.

Sparb Collins, Public Relations System, testified in favor of SB 2272. He handed out the proposed Amendment to engrossed SB 2272. The amendment is reflective of what Rod had pointed out.

Senator Robinson: After crossover, there will be re-projection. Didn't we hear from Sheila last week that we are not going to be doing that this time?

Sparb Collins: We have a figure that we are going to be sticking to the first time around.

Senator Mathern: Does the bill still have a delay?

Sparb Collins: The mandates are effective for the PERS plan first before they are effectively mandated for the general public.

Senator Christmann: The older mandate that the procedure follows, is higher education always in PERS? Is this the norm?

Sparb Collins: Higher education is part of the PERS plan and has always been part of the PERS plan. The coverage in bill was same either way.

V. Chair Grindberg: Do we have any information to show how this works with the number of North Dakotans per year based on claims and the population it's trying to help?

Sparb Collins: That is actually the purpose of putting it into PERS first for 2 years. That is one of the things we will be required to collect and share with you with this additional benefit. What is the actual incremental benefit and how many people are getting the additional benefit are the number we would report back to you. You would have the opportunity to make a decision before this becomes a mandate for the general public. The actually utilization at this point is unknown.

Rod St. Aubyn: Originally, you're supposed to go through the employee benefits committee. The second thing is that it is supposed to have actuarial analysis done for whole committee. The legislature basically contracted through Norman with the Insurance Commissioner's office and unfortunately they did not get it in time for the deadline. For basic Blue Cross Blue Shield plans, we do cover like Medicare does. The reason there is a fee onto PERS is that they do not cover what is called a "C" leg. You're appropriating dollars for PERS so it does cover the

"C" leg. As Sparb indicated, this will be reviewed based on that mandate law for a period of two years to see what is the true actually cost benefit. PERS will bring in a bill in 2011. The determination on this bill would apply PERS and to all insurers.

Bill Heiman: I work for a company that makes prosthetics. He testified in favor of SB 2272. (Written attached testimony #2). The actual is that anyone of you who have a state insurance company and if you lose a limb today you get $16,000 for five years. We like the way the bill is set. We are comfortable with following Medicare guidelines. We do not like is going with the PERS.

Senator Mathern: Are you saying that we should support the first amendment and reject the second amendment?

Bill Heiman: Yes.

Senator Christmann: I don't understand the opposition to the amendment. It lowers cost and includes the higher education people. Do you feel it limits it too much that there is not enough money to cover the employees?

Bill Heiman: It's a poor process.

Chairman Holmberg: Part of Senator Christmann's question confused me. Is your concern the fact that this is going to mandate it for PERS, but no one else, just PERS will be under this bill.

Bill Heiman: Yes, that is my understanding that just PERS will be under this bill. Once it goes through this investigative process for two years then it comes back to you for the right to put it for all the insurers in the state.

Chairman Holmberg: The process that those guys are following on this bill is what the state law says. If we are going to have some sort of a mandate it must be tried on PERS for the investigation or cost benefit. Then it comes back two years later. That is something the

legislature imposed. What I am hearing is that we should change the state law that requires a two year wait period.

Bill Heiman: I am asking for a variance or change. If you're saying "no, we can't have it" then we will accept and move forward.

Chairman Holmberg: I am not saying you can't have it. The legislature can change law during session. But that is not what the bill was testified about when it was in the policy committee. We would be very uncomfortable change that policy when we didn't have any input. We are looking at dollars end of it. I can understand your frustration.

V. Chair Grindberg: Bill, a person comes in and has total knee replacement is 65,000. Then someone loses their leg. $16,000 is a large amount of coverage. Is this something that has been forgotten over the years or just not brought to light?

Bill Heiman: It was never and still not brought to light. It's not technical stuff. It is the daily stuff people need to keep from falling and walking up stairs. We're talking about a cap of $16,000 for 5 years that is not right.

Chairman Holmberg closed the hearing on SB 2272.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2272

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 9050 (38:08)

Committee Clerk Signature Rose Laning

Minutes:

Chairman Holmberg opened discussion on SB 2272 which relates to parity for public employees retirement system health insurance coverage of prosthetics.

V. Chair Bowman: The way it came to us, the amendment wasn't on it, but he requested one.

Chairman Holmberg: He wanted to take off that amendment. If you recall, what he didn't like is current law which was you had to study it under PERS for two years. His amendment suggestion was that we take off the policy committee's amendment.

Senator Robinson: We can't do that.

Senator Mathern: Adopting Sparb's amendment would at least make the dollar amount accurate.

Senator Robinson moved to accept Sparb's Amendment.

Senator Krebsbach seconded.

Voice vote passed.

Feb. 9

Senator Krebsbach moved Do Pass as Amended on SB 2272.

Senator Wardner seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1

The bill goes back to Government and Veterans Affairs and Senator Behm will carry the bill.

90084.0301 Keep same LC #
Title.0400

Prepared by the Legislative Council staff for
Senate Appropriations
February 10, 2009

2-12-09 Tot 2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2272

Page 2, replace lines 27 through 31 with:

"Governor	$121		$121
Secretary of state	182	$6	188
Office of management and budget	732	165	897
Information technology department	328	1,891	2,219
State auditor	262	86	348
State treasurer	47		47
Attorney general	1,067	267	1,334
Tax commissioner	894		894
Office of administrative hearings		54	54
Legislative assembly	840		840
Legislative council	222		222
Judicial branch	2,328	17	2,345
Commission on legal counsel for indigents	195	27	222
Retirement and investment office		114	114
Public employees retirement system		222	222
Department of public instruction	213	457	670
Land department		146	146
State library	176	24	200
School for the deaf	280	15	295
North Dakota vision services - School for the blind	165	23	188
Department of career and technical education	179	13	192
State department of health	902	1,407	2,309
Veterans' home	509	302	811
Indian affairs commission	27		27
Department of veterans' affairs	47		47
Department of human services	9,156	5,879	15,035
Protection and advocacy project	192		192
Job service North Dakota	9	1,899	1,908
Insurance commissioner		312	312
Industrial commission	347	57	404
Labor commissioner	74	7	81
Public service commission	194	101	295
Aeronautics commission		40	40
Department of financial institutions		195	195
Securities department	60		60
Bank of North Dakota		1,152	~~1,512~~ 1,152
Housing finance agency		316	316
Mill and elevator association		880	880
Workforce safety and insurance		1,594	1,594
Highway patrol	1,044	273	1,317
Department of corrections and rehabilitation	4,732	263	4,995
Adjutant general	538	1,021	1,559
Department of commerce	347	110	457
Agriculture commissioner	250	223	473

State seed department		202	202
Upper great plains transportation institute	27	335	362
Branch research centers	478	164	642
NDSU extension service	1,007	790	1,797
Northern crops institute	51	24	75
Main research center	1,653	722	2,375
Agronomy seed farm		20	20
Racing commission	13		13
State historical society	371	46	417
Council on the arts	34		34
Game and fish department		1,055	1,055
Parks and recreation department	352	4	356
State water commission	494	84	578
Department of transportation		7,086	7,086
Bismarck state college	1,089		1,089
Lake region state college	323		323
Williston state college	343		343
University of North Dakota	4,451		4,451
University of North Dakota school of medicine and health sciences	827		827
North Dakota state university	3,843		3,843
State college of science	1,164		1,164
Dickinson state university	898		898
Mayville state university	400		400
Minot state university	1,302		1,302
Valley City state university	626		626
Minot state university - Bottineau	242		242
North Dakota university system office	805	173	978
North Dakota forest service	134		134
Total	$47,586	$30,263	$77,849"

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 31

Renumber accordingly

Date: 2-09-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2272

Senate _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended approve Sbarb's amend.

Motion Made By Sen. Robinson Seconded By Krebsbach

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer			Senator Warner		
Senator Christmann			Senator Robinson		
Senator Krebsbach			Senator Krauter		
Senator Bowman			Senator Lindaas		
Senator Kilzer			Senator Mathern		
Senator Grindberg			Senator Seymour		
Senator Wardner					
Chairman Holmberg					

Total Yes _____ No _____

Absent _____ voice vote passed

Floor Assignment Bachmeier

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

Date: 2-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2272

Senate _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Sen Krebsbach Seconded By Sen Wardner

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	✓		Senator Robinson	✓	
Senator Fischer	✓		Senator Lindaas		
V. Chair Bowman	✓		Senator Warner	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Seymour	✓	
Chairman Holmberg	✓		Senator Mathern	✓	
Senator Kilzer	✓				
V. Chair Grindberg	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Sen Bekk to GVA Boehm

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

REPORT OF STANDING COMMITTEE

SB 2272, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2272 was placed on the Sixth order on the calendar.

Page 2, replace lines 27 through 31 with:

"Governor	$121		$121
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Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 31

Renumber accordingly

2009 HOUSE HUMAN SERVICES

SB 2272

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2272

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 10, 2009

Recorder Job Number: 10556

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz opened the hearing on SB 2272.

William Hindeman: A group of us got together and presented this bill. This bill is similar if not almost identical to the one passed in Colorado. The first cover you see here (**See Attach. #1.**) there are 11 states who passed similar bills to this if not the exact same bill. There are some amendments that happened in ND for the exception of (inaudible) it is pretty much the same as the other states. Thirteen other states are now listening to this as we are in ND. We are asking to raise the caps for prosthetics. New technology brings higher end of cost. They are limited by caps on how much insurance will pay and have to come up with the rest of the money. Some may need two or three socket changes for a prosthesis of an amputation above the knee.

Rep. Potter: With the cost of prosthesis and the aftercare, how much would it actually cost for a person with a prosthetic leg?

William Hindeman: It will vary between missing an arm or a leg above or below the knee. Medicare has a sliding scale that the physician, physical therapist and prothestist puts everybody at a K level, 1, 2, 3, 4. Four being someone who could run, one is someone who can just transfer from chair to chair. Medicare allows x amount for each one of those levels. That's how I would answer that question.

Rep. Nathe: Who do you work for? Do you work for Hanger? Next question, you stated the current cap is $16,000 over 5 years. Is this bill asking to take the cap off altogether?

William Hindeman: Yes, I work for Hanger. (Answer to second question) correct.

Rep. Frantsvog: What's Hanger, who's Hanger?

William Hindeman: Hanger is a national company that makes artificial prosthesis.

Rep. Frantsvog: Earlier in your testimony I assume you were making reference to Hanger you were talking about people who needed adjustments in the, whatever that was called, and said there is no insurance coverage, and you people were eating that cost. Is that this company?

William Hindeman: I've worked for three companies in the state over the years and we have done that in all three companies. I believe that every company ends up doing that in one shape or form.

Rep. Frantsvog: Do you know ahead of time that they are not going to pay?

William Hindeman: Yes, we do. When they come in we know exactly how much insurance money they have used and if they have used their cap up already, we know. We have modular prosthesis now and can replace a socket rather than the whole prosthesis.

Sen. David O'Connell, district 6 sponsored bill: There are still limits on this bill to clear up that question. Spoke of rancher who had leg blown off and have prosthesis. There's a gentlemen here who can talk to you about the glove.

Steve Shakbauer: I had my accident back in 1992 and at that time I had American Family insurance and they covered my electronic limb one time only. I was a dairy farmer and I had the hook and just felt I couldn't enough with the hook. Having the electronic limb I can shift vehicles. I can open and close my hand just like you can. I moved to Minnesota and had a job that had BCBS insurance. I had to have a socket replaced and I paid my $1,000 deductible the insurance paid the rest and there was no cap on it. I moved back to ND and work for Cornwell

Churchill Motors as a service manager and. I have BCBS of ND and they have a cap of $5,000 within a five year period. I need to replace this again. They last about 5 years and I am going on 6. To fix my hand it is about $25,000. I don't have an extra $18,000 to cover the difference of this. Without this, there are things I can't do. I work at Lowes part time and they have BCBS of Alabama and they would cover my needs. It's the same as the insurance I had in MN, $1,000 deductible and the insurance would pay the rest. I would have to quit my full time job and work at Lowes full-time. I just want to get back to what I have now so I can do what I did before. If I want to upgrade that should really be up to me, I'll pay for that. I just want to get what I have.

Elise (Inaudible): I'm what you call a K-4. In 1968 I had a car accident and lost my right leg to the knee. I'm very active and my leg lasts for six years. It's difficult to be an active person and have a leg last for six years and it is difficult for people to understand that. I don't think anyone should have to call insurance companies and beg to have coverage.

Rod St. Aubyn representing BCBS: What to give some information. **See Testimony #2.**

Rep. Conrad: Minnesota and Alabama BCBS covers this why doesn't ND?

Rod St. Aubyn: All plans are independent. Also depends upon premiums.

Rep. Conrad: You could do this on your own right?

Rod St. Aubyn: Don't know what you mean. We have a program right now.

Rep. Conrad: What's the cap?

Rod St. Aubyn: It's $16,000 and $6,000. I'll get some info for you and forward it to committee.

Rep. Conrad: Are you familiar with Minnesota? They don't have these caps. What would be the process of going through no caps?

Rod St. Aubyn: I'm somewhat familiar with Minnesota. Talking about removing the caps, that will have to be done statutorily done. Most people don't reach those caps. We have approved over and above the cap in some cases depending upon the circumstances.

Rep. Conrad: If they go beyond $16,000 you wouldn't pay?

Rod St. Aubyn: Typically no.

Rep. Nathe: What is the proposed cap?

Rod St. Aubyn: The bill does not specify a cap.

Chairman Weisz: What's the minimum of Medicare?

Rod St. Aubyn: The bill all it really limits is that you cannot have a lifetime max. We have $6,000 per limb above and below the elbow and $16,000 above or below the knee every 5 years. This is in the PERS benefit, but similar to ours. There are some plans that have a BME (bureau of medical equipment) lifetime max or an annual max like we have. In the PERS, exclusions prosthetic limbs or components intended only for cosmetic purposes, deluxe prosthetic knees controlled by microprocessors or customized covering for terminal devices. Our basic plans do cover, but PERS does not.

Rep. Nathe: Is that over five years too?

Rod St. Aubyn: I'm not sure on that, but I'll find out. The dollars are not included in the $16,000 on the microprocessor. That is over and above. It is separate.

Rep. Potter: On the charts that you gave us, each and everyone was a mandate given by the legislature?

Rod St. Aubyn: That's correct.

Rep. Potter: For women that have a breast removed and there just isn't anything left for reconstruction and she (drops sentence).

Rod St. Aubyn: I'm not sure a lot of these we have not covered prior to the mandates. Mandates take away our flexibility.

Rep. Potter: With the chart you gave us, how do you know those costs were just from mandates and not from inflation or that kind of thing?

Rod St. Aubyn: No it is everyone. It's just the cost. We are not saying that is the inflationary cost. This is fiscal costs that we are paying for those mandates. We keep track of all claims and it based on how they are coded. So we can garner how much we have actually spent in particular codes. WE know if these are exactly the costs that we spent. As to your question if this is due to an increase in utilization or inflation? I can't say yes one way or the other. Not aware of any mandates approved since 2000.

Rep. Holman: How would this bill affect rate requests?

Rod St. Aubyn: This would not apply to other insurers until 2011. I don't see how this in particular is going to raise our costs. That is why we are neutral on this because we are already covering this under policy. For PERS it will be 28 cents per contract.

NO OPPOSITION.

Chairman Weisz closed the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2272

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 18, 2009

Recorder Job Number: 10556

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: Let's take up 2272 the prosthesis bill.

Rep. Porter: I move a Do Not Pass.

Rep. Frantsvog: Second.

Chairman Weisz: The bill was amended in the Senate, but basically the current policy (inaudible) all your (inaudible) times are not covered by this regardless no matter what we pass. Two-thirds (inaudible) covered no matter what we do.

Rep. Potter: If two-thirds covered why not cover one-third?

Chairman Weisz: For one thing it puts them on unequal footing then.

Rep. Potter: I thought that you meant that this wouldn't if they were already covered.

Chairman Weisz: I don't know where they are covered at. The mandates only apply to two-thirds of the cost.

Rep. Nathe: Is this bill be pushed by Hanger orthopedic group?

Chairman Weisz: They are the ones who gave the main testimony. They are the main beneficiary of the mandate and there's no question of that.

Rep. Potter: Are there more of those outfits in ND?

Chairman Weisz: Several.

Rep. Conrad: How is this going to change (inaudible)?

Chairman Weisz: It is part of the bill, but you wonder why it is. Where is the mandate different from the current policy is what you are asking? That's your question, what's changing that is upping the cost, correct?

Rep. Conrad: Yes.

Rep. Holman: (Inaudible) replacements.

Chairman Weisz: The limits are slightly higher. The bill was amended down so it is very similar to what the blue's office but, the caps are still a bit higher. If it costs $100,000, it's paid for example. Where this bill required prior authorization, that's put back into the bill. The bill puts it under what the federal Medicare groups are and the blues are just a little bit lower than what then that of the Medicare rate. That's why we have slight increase in cost. I'm pretty sure there about 18,000 people under the pers plan. It is not generally the mandate that costs much it is the accumulation of all the mandates and pretty soon the price of insurance; you know it is a balancing point that's trying to somehow to keep its (inaudible) insurance from failing when we really have to cover these. They have to have a $25,000 arm and the insurance only $12-15,000 at the same time (inaudible) people dropping off from insurance completely.

Rep. Conrad: We are rationing this. If you can't afford it, you are not going to get it.

Chairman Weisz: In that part (drops sentence) unfortunately that is where the (inaudible) of government is going to end up (drops sentence.)

Rep. Conrad: Just be prepared (inaudible).

Chairman Weisz: I will not disagree with you on that.

Rep. Conrad: That's exactly what they did in Canada.

Chairman Weisz: That's exactly right.

Roll Call Vote: 8 yes, 4 no, 1 absent, Rep. Hofstad.

MOTION CARRED DO NOT PASS

BILL CARRIER: Rep. Porter.

Date: 3-18-09

Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2272

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Rep. PORTER Seconded By Rep. FRANTSVOG

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN		✓
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD		✓
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN		✓
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	A		REP. LOUISE POTTER		✓
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 8 No 4

Absent 1 Hofstad

Bill Carrier Rep. Porter

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

Motion Carried
DNP

REPORT OF STANDING COMMITTEE

SB 2272, as reengrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2272 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2272

EMPLOYEE BENEFITS PROGRAMS COMMITTEE
REPORT TO THE 61ST LEGISLATIVE ASSEMBLY
REGARDING SENATE BILL NO. 2272

Date: October 21, 2008

Sponsor: Senator David O'Connell

Proposal: Establishes parity for health insurance coverage of prosthetics. The committee amended the proposal at the request of the sponsor to include a $190,090 appropriation to defray the cost of additional health insurance premiums necessary to provide the coverage under the proposal.

Actuarial Analysis: Blue Cross Blue Shield of North Dakota estimated that the cost is 90 cents per contract per month for the 2009-11 biennium.

Committee Report: No recommendation.

Testimony on SB 2272
Senate Industry Business and Labor Committee
January 26, 2009

Mr. Chairman and members of the Senate Industry Business and Labor Committee, for the record I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota (BCBSND). I appear before you today to oppose SB 2272, another health insurance mandate bill that will increase the cost of health insurance for all ND citizens.

Before getting into the specifics of the bill, I would point out to the committee that this should be considered a health insurance mandate as defined in NDCC 54-03-28 and as such should be acted on according to the provisions listed in NDCC 54-03-28. I have included copies of that section for your information. (See attached)

Generally BCBSND opposes mandates for the following reasons:

1. Mandates increase utilization and ultimately the cost of health insurance. (See attached chart – The Cost of Health Insurance Mandates from info.bcbsnd.com)
2. Mandates take away flexibility in offering choices to consumers.
3. Mandates tie the hands of insurers when technology and research changes medical procedures. (See attached chart – Prostate Cancer Screening from info.bcbsnd.com)
4. Mandates apply only to fully insured insurance products and do not apply to self funded plans. Currently about 50% of our business is self-funded.
5. With the increase in health insurance costs, more employers will be forced to drop health insurance benefits for its employees

Now I would like to point out exactly what this bill permits. It seems to say that health insurers are mandated to include in their benefit plans coverage for prosthetics that is comparable to Medicare's benefits. However careful reading will show that this benefit is very open ended. On page 1, lines 21 – 23 are contradictory to page 2, lines 13 – 17. Why is preauthorization necessary if the repair, replacement, and the appropriate prosthetic model dictated by the treating physician? In effect, this bill will provide a blank check for the purchase, repair, and replacement of any model of prosthesis desired by the treating physician. As an example, if a member receives a prosthesis today, and a newer model with better features comes out in 2 months, the insurer, and ultimately its policy holders, will have to incur the additional costs even if it is not medically necessary.

Currently most of our benefit plans provide benefits that are similar to the PERS benefit. I have included the exact language from the PERS benefit plan:

Schedule of Benefits, Section 1
"Subject to a Maximum Benefit Allowance every 5 years of $6,000 per limb above or below the elbow and $16,000 per limb above or below the knee. This benefit is not subject to the Medical Supplies and Equipment Maximum Benefit Allowance."

Covered Services, Section 2
"The purchase, fitting and necessary adjustments of Prosthetic Limbs and supplies that replace all or part of an absent limb subject to the Maximum Benefit Allowance listed in the Schedule of Benefits, Section 1. Benefits are available for standard Prosthetic Limbs only. When 2 Prosthetic Limbs are received for the same body part, payment will be based on the Prosthetic Limb with the highest Allowance. No additional payment will be made for an alignment procedure, as the charges are included in the Allowance for the Prosthetic Limb. Covered Services include replacement and repairs when Medically Appropriate and Necessary. Prior Approval is required if replacement of a Prosthetic Limb is necessary before 5 years.

Benefits are not available for Prosthetic Limbs or components intended only for cosmetic purposes, deluxe prosthetic knees controlled by microprocessors or customized coverings for terminal devices. Benefits are not available for Prosthetic Limbs or components required for work-related tasks, leisure or recreational activities or to allow a Member to participate in sport activities."

Exclusions
47. Prosthetic Limbs or components intended only for cosmetic purposes, deluxe prosthetic knees controlled by microprocessors or customized covering for terminal devices. Benefits are not available for Prosthetic Limbs or components required for work-related tasks, leisure or recreational activities or to allow a Member to participate in sport activities.

What I suspect is driving this bill is the advent of the "C-Leg" or microprocessor-based prosthesis. These types of prostheses can cost in the range of $40,000 to $50,000 each. With this bill, not only is the insurer obligated to pay for these, but they have no control if they are replaced annually or even more frequently if a new model becomes available.

Please note that on page 2, lines 9 – 12 the insurer is no longer able to put any annual or lifetime dollar maximum on coverage for prosthetics.

Our company provided a conservative estimated additional cost for PERS as part of the appropriation for this bill. Please note that the purchase of even 4 "C-Legs" will exceed the cost estimate.

I can assure you that if SB 2272 is passed as submitted, it will definitely increase health insurance costs to the citizens of ND who are covered by fully insured products. It will not apply to 50% of our members who are part of self-funded plans. In addition, there will be a push in future legislative sessions to allow the same "blank check" concept for all existing mandates to prohibit the implementation medical necessity standards.

I would urge this committee to:

1. Vote as a committee that this is indeed a mandate as stipulated in NDCC 54-03-08 (3.).
2. Amend the bill to include language to comply with NDCC 54-03-08. I have included a copy of a bill from the 2007 Session that included the appropriate language (Sections 2 & 3 of the attachment).

Mr. Chairman and Committee Members, I would urge you to defeat this bill. This measure will definitely increase costs for our members, prevent the determination of medical necessity, take away flexibility in plans designs, and will discriminately only apply to 50% of our market. I would be willing to answer any questions the committee may have.

54-03-28. Health insurance mandated coverage of services - Cost-benefit analysis requirement.

1. A legislative measure mandating health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the legislative assembly unless the measure is accompanied by a cost-benefit analysis provided by the legislative council. Factors to consider in this analysis include:
a. The extent to which the proposed mandate would increase or decrease the cost of the service.
b. The extent to which the proposed mandate would increase the appropriate use of the service.
c. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds.
d. The impact of the proposed mandate on the total cost of health care.
2. A legislative measure mandating health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the legislative assembly unless the measure as recommended by the committee provides:
a. The measure is effective through June thirtieth of the next odd-numbered year following the year in which the legislative assembly enacted the measure, and after that date the measure is ineffective.
b. The application of the mandate is limited to the public employees health insurance program and the public employee retiree health insurance program. The application of such mandate begins with every contract for health insurance which becomes effective after June thirtieth of the year in which the measure becomes effective.
c. That for the next legislative assembly, the public employees retirement system shall prepare and request introduction of a bill to repeal the expiration date and to extend the mandated coverage or payment to apply to accident and health insurance policies. The public employees retirement system shall append to the bill a report regarding the effect of the mandated coverage or payment on the system's health insurance programs. The report must include information on the utilization and costs relating to the mandated coverage or payment and a recommendation on whether the coverage or payment should continue. For purposes of this section, the bill is not a legislative measure mandating health insurance coverage of services or payment for specified providers of services, unless the bill is amended following introduction so as to change the bill's mandate.
3. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative measure mandates coverage of services under this section.
4. Any amendment made during a legislative session to a measure which mandates health insurance coverage of services may not be acted on by a committee of the legislative assembly unless the amendment is accompanied by a cost-benefit analysis provided by the legislative council.
5. The legislative council shall contract with a private entity, after receiving one or more recommendations from the insurance commissioner, to provide the cost-benefit analysis required by this section. The insurance commissioner shall pay the cost of the contracted services to the entity providing the services.

The Cost of Health Insurance Mandates

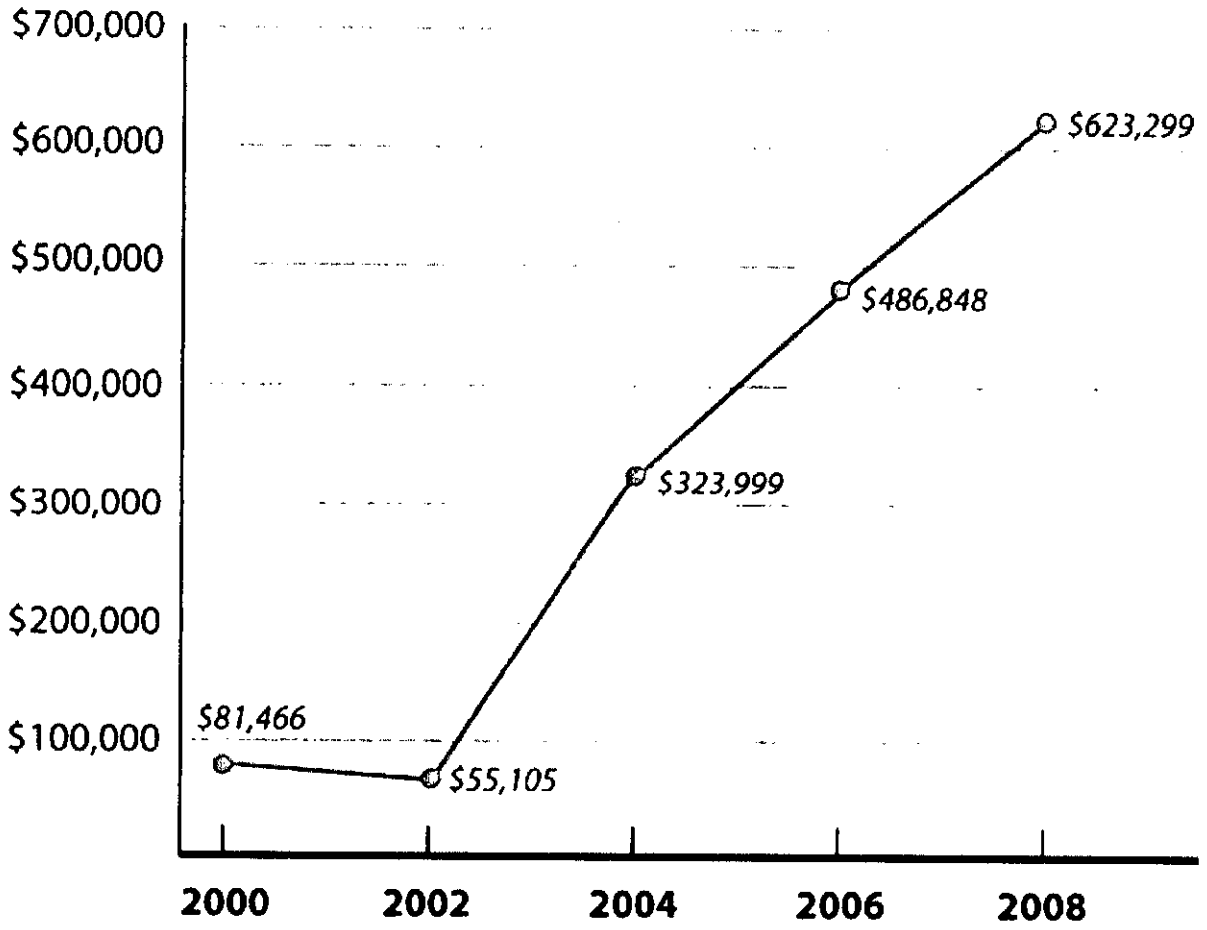
While BCBSND does not necessearily oppose any of these mandated benefits and providers, it is important to note the true costs of establishing mandates

Mandated Benefits	Professional Payments	Institutional Payments
Alcohol/Drug Abuse Treatment	$ 1,768,007	$ 9,458,986
Breast Reconstruction	$ 374,595	$ 423,783
Dental Anesthesia	$ 81,460	$ 112,924
Emergency Services	$ 6,504,812	$ 97,883,617
Mammography Screening	$ 3,235,295	$ 1,457,612
Mental Health (General)	$ 18,737,661	$ 12,953,340
Minimum Maternity Stay	NA	$ 16,087,316
Prostate Cancer Screening	$ 554,762	$ 68,537
TMJ Disorders	$ 64,482	$ 85,534
TOTAL	**$ 31,321,074**	**$ 138,531,649**

Mandated Provider	Professional Payments
Chiropractors	$11,617,662
Nurse Midwives	$ 871,374
Nurse Anesthetists	$ 7,827,477
Nurse Practitioners	$12,930,959
Nurse, Psychiatric	$ 732,208
Professional Counselors	$ 1,535,765
Psychologists	$ 6,874,774
Social Workers	$ 2,047,420
Lincensed Addiction Counselors	$ 1,084,391
TOTAL	**45,522,030**

2008 GRAND TOTAL $215,374,753

Prostate Cancer Screening



ORTHOPEDIC GROUP INC.
Hanger

John J. Rush, M.D.
Chief Medical Officer
Hanger Orthopedic Group, Inc.
February 3, 2009

Same given to Senate Approp.

In Support of SB 2272 (O'Connell)
SUPPORT

Good afternoon, my name is Dr. John Rush and I am the Chief Medical Officer of Hanger Orthopedic Group based in Bethesda, MD. We are the largest providers of orthotic and prosthetic patient care in the United States, with 620 patient care centers in 46 states and the District of Columbia. We have 2 patient care centers here in North Dakota. Hanger is proud to support the Amputee Coalition of America and its state chapters in the advocacy of this important legislation.

There are currently more than 1.8 million people in the United States living with limb loss. Every year, there are more than 130,000 people in the United States who undergo amputation. This number does not include our returning veterans who have suffered amputations while serving this great country overseas.

Those suffering from limb loss can and do regain their lives as productive members of society. Their stories are inspirational. They serve as a reminder of man's unyielding spirit. However, no amount of drive and determination can restore the natural function of an arm or a leg. These survivors can only regain their lives with the help of rehabilitation and the use of prosthetic devices.

Unfortunately, private health insurance companies have begun to limit reimbursement at unrealistic levels. Some have imposed $2,500 or even $1,000 annual maximums on Durable Medical Equipment (DME), where orthotics and prosthetics have traditionally been categorized. Others have sold policies that state a covered person is allowed only one prosthetic limb per lifetime. People suffering from limb loss are amputees for life. Their legs and arms are not growing back. Imagine if you were fit with a pair of shoes at 5-years-old and were told you had to wear that same pair of shoes the rest of your life. Even at 25- or 55-years-old, this expectation of one limb per life is completely absurd. You will hear specific examples from your constituents of this curtailed coverage. I have brought additional examples from North Dakota as well, as the rest of the country, of these caps and restrictions. It is interesting to note that prior to 2000 all commercial carriers covered prosthetics without caps and/or restrictions.

ORTHOPEDIC GROUP INC.
Hanger

We all know about the ever-increasing cost of medical care in the United States. The average commercial premium is now approximately $300 per month. The average Medicare premium is now over $550 per month. However, of these monthly premiums, less than 53 cents is spent on prosthetic services. Analysis by various State Mandate Commissions shows that this legislation would have no more than a 12 to 38 cent increase in monthly premiums.

Importantly, this analysis did not contemplate the costs of amputees who could no longer be productive members of society. Without proper prosthetic care, there will be increases in state Medicaid costs due to complications such as flexion contractures, skin breakdown, osteoporosis, muscle loss, depression, and the costs associated with nursing home and/or home care.

The provision of prosthetic services should be viewed as restorative. Not only has this bill returned people to work and saved money for the states passing it, health insurer's profits in those states have increased at a rate greater than the CPI. Prosthetic limbs allow people to return to work; they allow people to return to life. The Virginia JLARC (Joint Legislative Audit Review Commission) report found that approximately 80% of amputees can and do return to work if they are afforded prosthetic devices. All of the numbers I have just quoted can be found in the findings of the 7 state mandate commission reports. All of the commission reports have the same conclusions:

- Prosthetic coverage is the very role of insurance
- Prosthetic coverage will save the sate money
- It's the right thing to do.

My company has seen patients who have lost their jobs due to an inability to pay for a prosthetic device. They then receive Medicaid assistance to obtain their prosthesis so that they can return to work and pay health insurance premiums to the very company that curtailed coverage in the first place!

I know you have other health care mandates to consider, but when you do, please remember this: while every other mandate you pass, however well meaning, will increase utilization of the mandated benefit or service, NO ONE will cut off their arm or leg to access a prosthetic device benefit.

Currently eleven states – Colorado, Maine, New Hampshire, Rhode Island, Massachusetts, California, Oregon, New Jersey, Indiana, Vermont, and Louisiana – have passed similar bills. Twenty Nine additional states are working to get a prosthetic parity bill introduced.

In short, your constituents deserve health care coverage for catastrophic illness or injury. That is why they are paying those ever increasing health insurance premiums. They deserve prosthetic coverage that will allow them to regain mobility, maintain dignity, and live as productive members of society. Adequate prosthetic care is critical to daily functionality and we need legislation that recognizes that. Put prosthetics where it belongs - on par with other critical medical and surgical services in people's health insurance plans.

ORTHOPEDIC GROUP INC.
Hanger

When testifying in other states I often hear arguments from health insurance lobbyists that I would like to take a moment to refute.

1. They say, "Let the market determine what benefits to provide under any given policy." The very reason the number of mandates you have to consider has risen is because the health insurance "market" is not being responsive. We have evidence of companies asking for prosthetic coverage and not being able to obtain it.
2. In addition, the "choice" they speak of is illusory. HR departments don't understand that prosthetics are under DME and the insurance industry fails to educate them.
3. I've heard health insurers say that if this bill passes, "Everyone will get a microprocessor prosthetic device". This is simply not true. It certainly has not been true in any of the states that have passed these bills since 2001. The bill references Medicare as the standard and I have prepared a one pager to delineate the payment rules and qualifications for you.
4. The last argument form the insurance industry is one of cost. They say things like microprocessors cost $100K or more. Again, this is simply not true. The average cost of all prosthetics taken in the aggregate in 2005 was $8,360.00. In 2003 (the year of highest reimbursement) microprocessor controlled prosthetic devices were reimbursed at an average of $41,500. In 2007, that average reimbursement had fallen to $38,000. The insurance industry loves to put out actuarial assumptions that portend vast increases of future costs. I have never seen a projection that takes into account the declining cost of technology. I urge you instead to look at the actual experience of states passing this legislation. None of the concerns raised by the insurance industry has come to pass.

In summary:

- The people of North Dakota deserve health care coverage for catastrophic illness or injury; the very reason they purchase health insurance.
- Medicare, Medicaid, the VA, and the federal employee's health insurance plans all cover prosthetic devices without caps or restrictions. Your constituents who pay health insurance premiums every month should be afforded the same coverage.
- Analysis shows that this legislation would have no more than a 12 to 38 cent increase to monthly premiums.
- All of the states that have passed this needed legislation have found that their state Medicaid programs saved money. This bill will also undoubtedly save the great state of North Dakota money as well.
- Other health care mandates increase health care costs to the entire healthcare system because more people have access to the mandated benefit. This is not the case with the Prosthetic Parity Act as it will neither increase the frequency or the occurrence of amputations.

Thank you for your time today.

Testimony on SB 2272
Senate Industry Business and Labor Committee
February 3, 2009

Mr. Chairman and Committee Members, for the record I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota. Thank you for the opportunity to testify again to your committee. I wanted to clarify a few things from my previous testimony and statements made by others. First, our current medical benefit does in fact include the "microprocessor based" components in prosthetics based on medical necessity and appropriate standards, similar to what is included in the Medicare benefits. Medicare's benefits allow for prosthetics at an 80%/20% cost share arrangement plus a $350 deductible. That is similar to most of our plans. The one exception to that is the PERS benefit that we administer. Their plan does not provide for the "C-Leg" benefit. That is the reason for the appropriation at the end of this bill.

Our standard benefit plan provides the $16,000/$6,000 limit for the five year period in addition to the "microprocessor" component benefit.

I also wanted to correct some misinformation that was supplied by the representatives from Hanger. First, Dr. Rush had disputed my previous statement that because of higher utilization and lack of adequate rate increases, our company was losing money. Dr. Rush had said that our medical loss ratios in 2007 was 89%. I'm not sure where he got his information, but I decided to ask our Chief Financial Officer what our loss ratios have been in 2007 and for 2008. I copied his e-mail below:

Rod, per your request the 2007 and 2008 loss ratios reported on the annual statement are as follows:

Medical Claims Loss 91.49%
Admin 8.9% which includes premium tax of 1.2%

Draft numbers for 2008

Medical Claims Loss 92.2%
Admin 9.3% which includes premium tax of 1.2%

What that says is when you add medical claims and our administrative costs together, we had a loss in both 2007 (101.39%) and 2008 (101.5%) before investments. This is important since we were denied a rate increase for our individual products and our group business last year. So unless we have ample approved rate increases this year, we can expect that our 2009 losses will be larger than the 2008 figures.

Dr. Rush also disputed the fiscal note for this benefit in this bill. He said that $.90 per contract was too high. What he does not take into account is that this figure is a biennial amount only for PERS contracts (2 years and not one year as he was using.). Aside from that, the PERS population is significantly smaller than the overall average of the other areas he was quoting. That can significantly skew results. Milliman will be able to provide another comparison as required in current statute.

I visited with a few Medicare experts and physicians in the Durable Medical Equipment (DME) area. Unfortunately none of them could come for the hearing today. However, this is the information I discovered. As far as Medicare rules, there is NOTHING that allows coverage based solely on a physician's order. Medicare coverage is predicated upon "reasonable and necessary" language in 1862(a)(1) and in many cases, "reasonable and necessary" is defined by either national coverage determinations or local coverage determinations, both of which are founded upon evidence-based medicine. The patient's medical record must contain documentation that those coverage criteria outlined in the policies have been met. Even for repairs or replacement of items, there is still a requirement that coverage criteria are met. The proposed ND legislative language makes no mention of support for the efficacy or utility of the item based on well-designed studies that have been published in reputable peer-reviewed journals. It simply says "let the physician have what he wants for the patient".

From the perspective of a practicing physician, this is a very difficult position. Often it's not what the physician wants but rather what the patient "wants" based on telemarketing or other influences. Too often a doctor is placed in the position between the patient and a medical device supplier and it takes a strong will to tell a patient "I don't think that's the right XX for you." So the easy way out is to go ahead and order it. Why argue with your patient and potentially damage a relationship? An insurance company or someone other than the patient will ultimately pay for it in many cases. Nowhere is this seen more than the area of durable medical equipment, prosthetics and orthotics. Typically physicians are not trained in this area.

The issue is even more acute in the area of prosthetics. Physicians depend heavily on the orthotist or prosthetist to "recommend" what the patient should have. In most cases, the recommendation is what the patient needs. In some cases, it's what the prosthetist wants to "sell." And the uneducated physician "trusts" the prosthetist and signs off on the order.

Finally, going back to evidence-based medicine, it is most lacking in the area of prosthetics and orthotics - particularly microprocessor controlled products. There is very little literature, other than studies sponsored by the manufacturers of these products, to support which patients and in what circumstances these should be used. A great example is the Otto Bock C-Leg (Hanger is the #1 provider of this microprocessor-controlled knee (MPK) in the country). While the Veteran's Administration has guidelines based on their experience with the product, there is very little literature to help define which patient populations will benefit most from this very expensive device. In fact, Hanger and Otto Bock both have been pressing Medicare for the past several years to loosen coverage and

allow payment for beneficiaries with less and less functional capabilities. The main reason Medicare has not expanded coverage is the lack of medical literature supporting their position.

One of the Medical Directors that I visited with said he would be willing to individually visit with any committee member if they wished. His name and number is provide below:

Robert D. Hoover, Jr., MD, MPH, FACP
CIGNA Government Services
Senior Medical Director
Phone: 615.385.2476

You may want to visit with Medicaid officials as well. Testimony alluded to the fact that the "C-legs" were routinely approved by Medicaid in ND. I visited with Medicaid staff and got a different understanding. Their approval is also based on what is medically necessary and appropriate.

I would suggest the following amendments to this bill on the attachment that follows to make them more comparable to the Medicare policies.

Mr. Chairman, I would be willing to answer any questions that the committee may have.

BCBSND
Proposed Amendments on SB 2272
2/3/09

Page 2, line 9, remove "annual or"

Page 2, line 10, replace "an annual or" with "a"

Page 2, delete lines 13 through 17

Add language to have this apply to PERS only with an expiration date and require PERS to prepare and submit a bill for the sixty-second legislative assembly to repeal the expiration date and to extend the prosthetic coverage to apply to all group and individual health insurance policies. The public employees retirement system shall append to the bill a report regarding the effect of the prosthetic coverage requirement on the system's health insurance programs, information on the utilization and costs relating to the coverage, and a recommendation on whether the coverage should continue.

Renumber accordingly

Amputee Coalition of America

Prosthetic Parity: State by State

The ACA is proud of the progress we have made in advancing bills in state legislatures throughout the country. With the help of partners like Hanger Orthopedic, there are now eleven states with laws on the books. In 2008, we were also successful in getting legislation introduced in both chambers of the US Congress with strong, bipartisan support.

As legislative sessions commence throughout the country, we look forward to continuing to advance legislation aimed at ensuring that amputees get the care they need to lead independent, active lives.

Bills Passed (11): Colorado, Maine, New Hampshire, California, Massachusetts, Rhode Island, Oregon, New Jersey, Indiana, Vermont, and Louisiana

2009 Bills (10):

- ✓ Maryland, SB 341
- ✓ Connecticut, HB 5093
- ✓ Iowa, SB 1019 and SB 1122
- ✓ Nebraska, LB 149
- ✓ North Dakota, SB 2272
- ✓ Texas, SB 26, HB 806 and HB 844
- ✓ Utah, HB 89
- ✓ Virginia, SB 1116 and HB 1977
- ✓ Michigan, HB 4007 and HB 4009
- ✓ Missouri, HB 616 and SB 320

Introduction Pending (10): These bills have been drafted. We are working to secure introduction. We are confident that legislation will be advanced in these states in 2009.

- ✓ Illinois
- ✓ Georgia
- ✓ Kansas
- ✓ Kentucky
- ✓ Ohio
- ✓ Alabama
- ✓ Pennsylvania
- ✓ Tennessee
- ✓ Wisconsin
- ✓ Arkansas

Additional states are working towards the introduction of prosthetic parity bills in upcoming years. We will also continue to push for federal legislation.

BlueCross BlueShield of North Dakota

Financial Report

Balance sheet as of December 31, 2007, including assets, liabilities and reserves, and statement of operations.

Assets	
Cash and Cash Equivalents	$ 25,830,000
Accounts Receivable	$ 102,065,000
Investments	$ 279,229,000
Land and Buildings	$ 21,903,000
Income Tax Recoverable	$ 252,000
Deferred Tax Asset	$ 4,200,000
EDP Equipment	$ 10,690,000
Intangible SERP Benefit	$ 1,011,000
Total Assets	**$ 445,180,000**
Liabilities and Reserves	
Claims Payable	$ 145,326,000
Accounts Payable	$ 47,339,000
Premiums Received in Advance	$ 16,180,000
Total Liabilities	**$ 208,845,000**
Reserves for Contingencies	$ 236,335,000
Total Liabilities and Reserves	**$ 445,180,000**
Statement of Operations As of December 31, 2007	
Premium Income and Equivalents	$ 1,178,822,000
Claims Incurred	$ 1,094,684,000
Excess	$ 84,138,000
Operating Expense	$ 87,282,000
Operating Gain/(Loss)	$ (3,144,000)
Other Income	$ 21,812,000
Income Tax Provision	$ 656,000
Net Income	**$ 18,012,000**
Changes in Reserves for Contingencies	
Balance as of December 31, 2006	$ 233,271,000
Change in Unrealized Gain/(Loss)	$ (4,475,000)
Change in Other Non-Admitted Assets	$ (10,273,000)
Change in Net Deferred Income Tax	$ (200,000)
Gain/(Loss) to Date	$ 18,012,000
Balance as of December 31, 2007	**$ 236,335,000**

BlueCross BlueShield of North Dakota

home / about bcbsnd / company facts

Company Facts

Blue Cross Blue Shield of North Dakota is a not-for-profit mutual company. It is the largest provider of health care coverage in North Dakota, serving more than 50 percent of the state's population. The BCBSND Board of Directors governs the operation of BCBSND. The 13-member board has eight consumer members and five health care provider members.

Subscribers and Claims

- Insures and/or administers claims for more than 475,000 people
- 2007 income was $1,179,000,000
- 2007 claims paid totaled nearly $1,095,000,000

Awards and Recognition

- Customer centered company
- Continues to be at or near the top in the Blue Cross Blue Shield Association's Quality Assurance ratings for customer service.
- Received the National Brand Excellence Award from the Blue Cross Blue Shield Association, recognizing the corporation's achievements in overall performance, seven times since its inception in 1995.

Employees and Allied/Subsidiary Companies

- BCBSND and affiliated companies employ about 2,300 people
- Majority of employees are in the Fargo office
- More than half of the employees work in Noridian Administrative Services (Medicare claims)
- NAS, LLC, provides administrative services to government agencies and private business
- NAS's largest client is the federal Medicare program
- NAS administers Part A Medicare programs in 11 states and Part B Medicare in 13 states.

Allied/Subsidiary Companies:

- Lincoln Mutual Life & Casualty Insurance Company
- The Dental Service Corporation of North Dakota
- North Dakota Vision Services, Inc.
- Noridian Insurance Services, Inc.
- North Dakota Caring Foundation.

Locations

Leadership

2007 Board of Directors

Jodi L. Atkinson
St. Andrew's Health Center
Bottineau

Julie A. Blehm, M.D.
MeritCare, Fargo

Laura D. Carley
Industrial Builders, West Fargo

Richard A. Espeland
RE Consulting, Bismarck

Dennis J. Elbert, Ph. D.
Vice Chair
College of Bus. and Public
Admin., UND, Grand Forks

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United Clinics, P.C., Hettinger

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Johnsen Trailer Sales, Inc.
Bismarck

Roger A. Kenner
Kenner Seed and
Simmental Ranch, Leeds

Frank P. Keogh
American State Bank
and Trust Co., Williston

Robert L. Lamp
Association Services Inc.
Fargo

Gary P. Miller
St. Alexius Medical Center
Bismarck

Mark S. Sanford, Ed.D.
Grand Forks

Mary K. Wakefield, Ph.D.
R.N., Center for Rural
Health, UND, Grand Forks

2008 Officers of the Plan

Michael B. Unhjem
President and CEO

Mary Ann Schaan
Executive Assistant

Michael Hamerlik
Executive Vice President
Corporate and
Government Operations

Mike Bergh
Senior Vice President
Claims Administration
and Member Services

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Senior Vice President
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Chief Financial Officer

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Senior Vice President and
Chief Marketing Officer

Anna Frissell
Vice President, Compliance
Audit and Corporate Ethics

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and Chief Medical Officer

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Denise Kolpack
Vice President
Corporate Communications

Brad W. Bartle
Vice President
Actuarial and Membership

Mark Tschider
Vice President, Development
and Business Strategies

Statutory Financial Statements

Balance Sheet — December 31, 2007

Assets	
Cash and Cash Equivalents	$ 25,830,000
Accounts Receivable	102,066,000
Investments	279,229,000
Land and Buildings	21,903,000
Income Tax Recoverable	252,000
Deferred Tax Asset	4,200,000
EDP Equipment	10,690,000
Intangible SERP Benefit	1,011,000
Total Assets	$ 445,180,000
Liabilities and Reserves	
Claims Payable	$ 145,326,000
Accounts Payable	47,339,000
Premiums Received in Advance	16,180,000
Total Liabilities	208,845,000
Reserves for Contingencies	236,335,000
Total Liabilities and Reserves	$ 445,180,000

Statement of Operations — As of December 31, 2007

Premium Income and Equivalents	$ 1,178,822,000
Claims Incurred	1,094,684,000
Excess	84,138,000
Operating Expense	87,282,000
Operating Gain/(Loss)	(3,144,000)
Other Income	21,812,000
Income Tax Provision	656,000
Net Income	$ 18,012,000

Changes in Reserves for Contingencies

Balance as of December 31, 2006	$ 233,271,000
Change in Unrealized Gain/(Loss)	(4,475,000)
Change in Other Non-Admitted Assets	(10,273,000)
Change in Net Deferred Income Tax	(200,000)
Gain/(Loss) to Date	18,012,000
Balance as of December 31, 2007	$ 236,335,000

BlueCross BlueShield
of North Dakota

An Independent Licensee of the Blue Cross & Blue Shield Association

4510 13th Avenue South
Fargo, North Dakota 58121
800-342-4718
www.BCBSND.com

Noridian Mutual Insurance Company

BlueCross BlueShield
of North Dakota

2007 Annual Report

BE Well

It pays to stay well.

Wellness-based health care is a topic of great interest right now, and for good reason. The decisions we all make—BCBSND, providers and consumers—impact the cost of health care, for better or worse. The more we focus on staying well, the better we can control the rising price of medical care.

And it's easier than you think. Over time, those little steps add up, and make a difference. Every day we take time to walk, every night we play outside with our children, every time we skip the drive-through restaurant...that's one more step to better health.

BCBSND is committed to helping all North Dakotans get healthier, whether they're members or not. We're focused on empowering people across the state to take control of their health, save money and live well.

Dear Member:

"Be well." It's a simple phrase, but it can have significant impact for each of us, our communities and our health care system.

As health care costs continue to increase, our choices and actions make a difference. Consider this: chronic illnesses such as heart disease, hypertension and diabetes account for 70 percent of total health care costs. Healthier people, families and communities can help change what has become an "illness care system" to a system that supports preventive health.

To support your better choices, Blue Cross Blue Shield of North Dakota has launched a new wellness program. Many resources, including a free health risk assessment, are available to you and can be found at NDWellnessCenter.com. We encourage you to do what you can, one step at a time.

We will also continue to do our part. In 2007, BCBSND insured more than 350,000 North Dakotans—just over half of the population of our state. While that kind of market share allows us to offer the most affordable coverage possible, and keep administrative costs low, it also makes us a leader—a responsibility we take to heart.

We are involved in several statewide health initiatives and innovative programs, including a program that provides additional at-home care for chronic diseases; collaboration with state and federal decision-makers to expand coverage to the uninsured, especially children; and several health information technology efforts, especially in our rural areas.

Together, we will address our health care challenges. We sincerely appreciate your membership, and we hope you continue to "be well."

Sincerely,

Michael B. Unhjem

President and Chief Executive Officer

Keeping members healthy

This is a landmark year for Blue Cross Blue Shield of North Dakota! We recently launched one of the most positive, rewarding health and wellness initiatives in our history—an effort we hope will not only benefit members, but also strengthen the health and well-being of our company.

And it begins with NDWellnessCenter.com, a web site dedicated exclusively to wellness. The site provides a free health risk assessment to all visitors. Eligible members can access MyHealthCenter, an online wellness tool, and the Health Club Credit program, in which members and their eligible spouses can each earn up to $20 per month credit if they each work out 12 days per month.

NDWellnessCenter.com also features our tobacco cessation program.

Smoking accounts for one in every five deaths and costs the nation nearly $160 billion each year.

In addition, the site promotes the Prenatal Plus program, offered at no cost to members. While this program benefits all participants, it is especially helpful in identifying those at risk for having premature or low birth-weight babies. Those members receive one-on-one attention from a BCBSND case manager. The program provides valuable help whether it's your first child or your fifth.

Because chronic diseases lead to an estimated 45 million sick days and $74 billion in lost productivity each year, we place special emphasis on our workplace wellness programs. Educational materials are available on a variety of health-related topics, from fighting parental stress to avoiding injury during exercise.

In 2007, our Member Education representatives gave 1,183 worksite presentations to more than 28,800 members.

In addition to promoting wellness, we want to make chronic disease care easier for members. Through our Advanced Medical Home program with MeritCare Health System, participating members with diabetes, high blood pressure and coronary artery disease receive their care from a single source, their primary care physician. In addition to office visits, members have access to a disease management nurse. BCBSND is now planning to expand aspects of this program to other providers.

To help reduce costs, we encourage physicians and members to consider generic drugs when appropriate. Through our Generic Drug Education program, we visit clinics to share how generic drugs can be used for specific conditions such as depression, migraines or high cholesterol, among others. In addition, Prescriber Reports are sent to physicians annually listing the top drugs they prescribe, how often they prescribe generics and how frequently they stay within the BCBSND formulary.

More than 1,000 primary care physicians have received letters asking them to consider generic drugs to lower cholesterol.

Keeping communities healthier

Our commitment extends to North Dakota's communities. To better serve these communities, we support the use of telemedicine in providing quality health care services to our members and reimburse consulting physicians for their work.

We support statewide health-focused events and programs, including Healthy North Dakota. This statewide partnership includes private and public sector leaders. It promotes the health and wellness of residents and strives to lower health care costs.

Helping the state's uninsured is equally important to us. We continue to partner with providers to make health, dental and mental health care available to North Dakota's uninsured children through the Caring for Children program. These children are from working families who earn too much to qualify for government-funded programs, yet not enough to pay for private insurance.

In 2007, we awarded $425,000 in grants to nine North Dakota organizations for information technology projects that affect the quality, cost and access to health care services in our rural communities.

Lifestyle

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2272

Page 2, after line 26, insert:

Office of the Governor	$120.96	$0.00	$120.96
Office of the Secretary of State	$182.31	$5.85	$188.16
Office of Management and Budget	$732.31	$164.81	$897.12
Information Technology Department	$328.24	$1,890.71	$2,218.94
Office of the State Auditor	$261.95	$86.14	$348.10
Office of the State Treasurer	$47.04	$0.00	$47.04
Office of the Attorney General	$1,066.85	$267.07	$1,333.92
Office of the Sate Tax Commissioner	$893.76	$0.00	$893.76
Office of Administrative Hearings	$0.00	$53.76	$53.76
Legislative Assembly	$840.00	$0.00	$840.00
Legislative Council	$221.76	$0.00	$221.76
Judicial Branch	$2,328.14	$17.14	$2,345.28
Legal Counsel of Indigents	$194.69	$27.07	$221.76
Retirement and Investment Office	$0.00	$114.24	$114.24
Public Employees Retirement System	$0.00	$221.76	$221.76
Department of Public Instruction	$213.53	$456.79	$670.32
State Land Department	$0.00	$146.16	$146.16
State Library	$176.33	$23.59	$199.92
School for the Deaf	$280.23	$15.04	$295.28
N.D. Vision Services	$165.49	$22.67	$188.16
Dept of Career and Technical Ed	$178.71	$12.81	$191.52
North Dakota Department of Health	$901.62	$1,406.70	$2,308.32
Veterans Home	$508.75	$302.49	$811.24
Indian Affairs Commission	$26.88	$0.00	$26.88
Department of Veterans Affairs	$47.04	$0.00	$47.04
Department of Human Services	$9,156.06	$5,879.14	$15,035.19
Protection and Advocacy Project	$191.52	$0.00	$191.52
Job Service North Dakota	$9.32	$1,899.50	$1,908.82
Office of the Insurance Commissioner	$0.00	$312.48	$312.48
Industrial Commission	$346.64	$56.96	$403.60
Office of the Labor Commissioner	$74.02	$6.62	$80.64
Public Service Commission	$194.46	$101.22	$295.68
Aeronautics Commission	$0.00	$40.32	$40.32
Department of Financial Institutions	$0.00	$194.88	$194.88
Office of the Securities Commissioner	$60.48	$0.00	$60.48
Bank of North Dakota	$0.00	$1,152.48	$1,152.48
North Dakota Housing Finance Agency	$0.00	$315.84	$315.84
North Dakota Mill & Elevator	$0.00	$880.32	$880.32

Association			
Workforce Safety & Insurance	$0.00	$1,593.58	$1,593.58
Highway Patrol	$1,043.82	$273.30	$1,317.12
Department of Corrections and Rehabilitation	$4,731.89	$263.02	$4,994.91
Adjutant General	$538.19	$1,020.85	$1,559.04
Department of Commerce	$347.02	$109.94	$456.96
Department of Agriculture	$250.32	$223.44	$473.76
State Seed Department	$0.00	$201.60	$201.60
Upper Great Plains Transportation Institute	$27.13	$335.42	$362.54
Branch Research Centers	$478.13	$164.03	$642.16
NDSU Extension Service	$1,006.58	$789.88	$1,796.46
Northern Crops Institute	$51.29	$23.97	$75.26
NDSU Main Research Center	$1,652.95	$721.83	$2,374.78
Agronomy Seed Farm	$0.00	$20.16	$20.16
Racing Commission	$13.44	$0.00	$13.44
State Historical Society	$370.60	$46.04	$416.64
Council on the Arts	$33.60	$0.00	$33.60
Game & Fish Department	$0.00	$1,055.04	$1,055.04
Department of Parks & Recreation	$352.18	$3.98	$356.16
State Water Commission	$494.07	$83.85	$577.92
Department Of Transportation	$0.00	$7,086.24	$7,086.24
Bismarck State College	$1,088.64	$0.00	$1,088.64
Lake Region State College	$322.56	$0.00	$322.56
Williston State College	$342.72	$0.00	$342.72
University of North Dakota	$4,451.33	$0.00	$4,451.33
UND School of Medicine and Health Services	$826.56	$0.00	$826.56
North Dakota State University	$3,842.50	$0.00	$3,842.50
North Dakota State College of Science	$1,164.24	$0.00	$1,164.24
Dickinson State University	$898.46	$0.00	$898.46
Mayville State University	$399.84	$0.00	$399.84
Minot State University	$1,301.66	$0.00	$1,301.66
Valley City State University	$625.63	$0.00	$625.63
Minot State University - Bottineau	$241.92	$0.00	$241.92
North Dakota University System Office	$804.85	$172.70	$977.56
North Dakota Forest Service	$134.40	$0.00	$134.40
State Total	$47,585.60	$30,263.45	$77,849.05

Page 2, remove lines 27 through 31

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 31

Renumber accordingly

#1

ACA Amputee Coalition of America

Prosthetic Parity: State by State

The ACA is proud of the progress we have made in advancing bills in state legislatures throughout the country. With the help of partners like Hanger Orthopedic Group, Inc., there are now eleven states with laws on the books. In 2008, we were also successful in getting legislation introduced in both chambers of the US Congress with strong, bipartisan support.

As legislative sessions commence throughout the country, we look forward to continuing to advance legislation aimed at ensuring that amputees get the care they need to lead independent, active lives.

Bills Passed (11): Colorado, Maine, New Hampshire, California, Massachusetts, Rhode Island, Oregon, New Jersey, Indiana, Vermont, and Louisiana

2009 Bills (12):

✓ **Virginia**	**SB 1116**	**Past the House and Senate; sent to Governor**
✓ Nebraska	LB 149	Heard in Committee
✓ Iowa	HF 311 and SB 1122	Past the House; in the Senate
✓ North Dakota	SB 2272	Past 2 Senate Committees
✓ Missouri	SB 320 and HB 616	Heard in the House and Senate
✓ Texas, SB 26	HB 806 and HB 844	
✓ Utah	HB 89	
✓ Michigan	HB 4007 and HB 4009	
✓ Alabama	HB 411	
✓ Maryland	SB 341 and HB 579	Heard in the House and Senate
✓ Connecticut	HB 5093	
✓ Illinois	HB 2652	

Introduction Pending (8): These bills have been drafted. We are working to secure introduction. We are confident that legislation will be advanced in these states in 2009.

- ✓ Ohio
- ✓ Georgia
- ✓ Kansas
- ✓ Kentucky
- ✓ Pennsylvania
- ✓ Tennessee
- ✓ Wisconsin
- ✓ Arkansas

Additional states are working towards the introduction of prosthetic parity bills later this year as well as in upcoming years. We will also continue to push for federal legislation.

ORTHOPEDIC GROUP INC.
Hanger

John J. Rush, M.D.
Chief Medical Officer
Hanger Orthopedic Group, Inc.
February 9, 2009

In Support of SB 2272 (O'Connell)
SUPPORT

Good afternoon, my name is Dr. John Rush and I am the Chief Medical Officer of Hanger Orthopedic Group based in Bethesda, MD. We are the largest providers of orthotic and prosthetic patient care in the United States, with 620 patient care centers in 46 states and the District of Columbia. We have 2 patient care centers here in North Dakota. Hanger is proud to support the Amputee Coalition of America and its state chapters in the advocacy of this important legislation.

There are currently more than 1.8 million people in the United States living with limb loss. Every year, there are more than 130,000 people in the United States who undergo amputation. This number does not include our returning veterans who have suffered amputations while serving this great country overseas.

Those suffering from limb loss can and do regain their lives as productive members of society. Their stories are inspirational. They serve as a reminder of man's unyielding spirit. However, no amount of drive and determination can restore the natural function of an arm or a leg. These survivors can only regain their lives with the help of rehabilitation and the use of prosthetic devices.

Unfortunately, private health insurance companies have begun to limit reimbursement at unrealistic levels. Some have imposed $2,500 or even $1,000 annual maximums on Durable Medical Equipment (DME), where orthotics and prosthetics have traditionally been categorized. Others have sold policies that state a covered person is allowed only one prosthetic limb per lifetime. People suffering from limb loss are amputees for life. Their legs and arms are not growing back. Imagine if you were fit with a pair of shoes at 5-years-old and were told you had to wear that same pair of shoes the rest of your life. Even at 25- or 55-years-old, this expectation of one limb per life is completely absurd. You will hear specific examples from your constituents of this curtailed coverage. I have brought additional examples from North Dakota as well, as the rest of the country, of these caps and restrictions. It is interesting to note that prior to 2000 all commercial carriers covered prosthetics without caps and/or restrictions.

ORTHOPEDIC GROUP INC.
Hanger

We all know about the ever-increasing cost of medical care in the United States. The average commercial premium is now approximately $300 per month. The average Medicare premium is now over $550 per month. However, of these monthly premiums, less than 53 cents is spent on prosthetic services. Analysis by various State Mandate Commissions shows that this legislation would have no more than a 12 to 38 cent increase in monthly premiums.

Importantly, this analysis did not contemplate the costs of amputees who could no longer be productive members of society. Without proper prosthetic care, there will be increases in state Medicaid costs due to complications such as flexion contractures, skin breakdown, osteoporosis, muscle loss, depression, and the costs associated with nursing home and/or home care.

The provision of prosthetic services should be viewed as restorative. Not only has this bill returned people to work and saved money for the states passing it, health insurer's profits in those states have increased at a rate greater than the CPI. Prosthetic limbs allow people to return to work; they allow people to return to life. The Virginia JLARC (Joint Legislative Audit Review Commission) report found that approximately 80% of amputees can and do return to work if they are afforded prosthetic devices. All of the numbers I have just quoted can be found in the findings of the 7 state mandate commission reports. All of the commission reports have the same conclusions:

- Prosthetic coverage is the very role of insurance
- Prosthetic coverage will save the sate money
- It's the right thing to do.

My company has seen patients who have lost their jobs due to an inability to pay for a prosthetic device. They then receive Medicaid assistance to obtain their prosthesis so that they can return to work and pay health insurance premiums to the very company that curtailed coverage in the first place!

I know you have other health care mandates to consider, but when you do, please remember this: while every other mandate you pass, however well meaning, will increase utilization of the mandated benefit or service, NO ONE will cut off their arm or leg to access a prosthetic device benefit.

Currently eleven states - Colorado, Maine, New Hampshire, Rhode Island, Massachusetts, California, Oregon, New Jersey, Indiana, Vermont, and Louisiana - have passed similar bills. Twenty Nine additional states are working to get a prosthetic parity bill introduced.

In short, your constituents deserve health care coverage for catastrophic illness or injury. That is why they are paying those ever increasing health insurance premiums. They deserve prosthetic coverage that will allow them to regain mobility, maintain dignity, and live as productive members of society. Adequate prosthetic care is critical to daily functionality and we need legislation that recognizes that. Put prosthetics where it belongs - on par with other critical medical and surgical services in people's health insurance plans.

ORTHOPEDIC GROUP INC.
Hanger

When testifying in other states I often hear arguments from health insurance lobbyists that I would like to take a moment to refute.

1. They say, "Let the market determine what benefits to provide under any given policy." The very reason the number of mandates you have to consider has risen is because the health insurance "market" is not being responsive. We have evidence of companies asking for prosthetic coverage and not being able to obtain it.
2. In addition, the "choice" they speak of is illusory. HR departments don't understand that prosthetics are under DME and the insurance industry fails to educate them.
3. I've heard health insurers say that if this bill passes, "Everyone will get a microprocessor prosthetic device". This is simply not true. It certainly has not been true in any of the states that have passed these bills since 2001. The bill references Medicare as the standard and I have prepared a one pager to delineate the payment rules and qualifications for you.
4. The last argument form the insurance industry is one of cost. They say things like microprocessors cost $100K or more. Again, this is simply not true. The average cost of all prosthetics taken in the aggregate in 2005 was $8,360.00. In 2003 (the year of highest reimbursement) microprocessor controlled prosthetic devices were reimbursed at an average of $41,500. In 2007, that average reimbursement had fallen to $38,000. The insurance industry loves to put out actuarial assumptions that portend vast increases of future costs. I have never seen a projection that takes into account the declining cost of technology. I urge you instead to look at the actual experience of states passing this legislation. None of the concerns raised by the insurance industry has come to pass.

In summary:

- The people of North Dakota deserve health care coverage for catastrophic illness or injury; the very reason they purchase health insurance.
- Medicare, Medicaid, the VA, and the federal employee's health insurance plans all cover prosthetic devices without caps or restrictions. Your constituents who pay health insurance premiums every month should be afforded the same coverage.
- Analysis shows that this legislation would have no more than a 12 to 38 cent increase to monthly premiums.
- All of the states that have passed this needed legislation have found that their state Medicaid programs saved money. This bill will also undoubtedly save the great state of North Dakota money as well.
- Other health care mandates increase health care costs to the entire healthcare system because more people have access to the mandated benefit. This is not the case with the Prosthetic Parity Act as it will neither increase the frequency or the occurrence of amputations.

In the insurance industry's rebuttal testimony to mine, Rod St. Aubyn stated, "Dr. Rush has said that our medical loss ratio in 2007 was 89%. I'm not sure where he got his information, but I decided to ask our CFO what our loss ratios was in 2007. I copied his e-mail below:
Medical Claim Loss = 91.49%
Admin = 8.9% (which includes premium tax of 1.2%)"

ORTHOPEDIC GROUP INC.
Hanger

Therefore, Rod is claiming they LOST 0.4%. Firstly, Dr. Rush got his numbers from the BCBS of ND's annual report posted on their web site. Rod conveniently leaves out that BCBS had $236M in reserves. In addition, they made $21.8M in other income. Their balance on 12/31/06 was $233M and on 12/31/07 it was $236M. A net increase of $3M dollars. Boy, would I like to have that kind of problem!

However, all of this back and forth is designed to take your eye off the ball. Let me remind you what we're talking about. People like these who have lost their arms or legs and an insurance company who refuses to pay even the minimum necessary to allow them to get back to work.

Please, I ask you once again to restore this bill back to its original form and allow amputees in ND, as well as all future amputees in ND, the ability to get back to work and back to life.

Thank you for your time. I'll take any questions you may have.

#2

Testimony on SB 2272
House Human Services Committee
March 10, 2009

Mr. Chairman and members of the House Human Services Committee, for the record I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota (BCBSND). We are typically opposed to any mandate bill for the following reasons:

1. Mandates increase utilization and ultimately the cost of health insurance. (See attached chart – The Cost of Health Insurance Mandates from info.bcbsnd.com)
2. Mandates take away flexibility in offering choices to consumers.
3. Mandates tie the hands of insurers when technology and research changes medical procedures. (See attached chart – Prostate Cancer Screening from info.bcbsnd.com)
4. Mandates apply only to fully insured insurance products and do not apply to self funded plans. Currently about 50% of our business is self-funded.
5. With the increase in health insurance costs, more employers will be forced to drop health insurance benefits for its employees

While we strongly opposed this bill in the Senate, our major objections were addressed in the Senate amendments as reflected in this engrossed version. Because the bill, as written, basically mirrors our current prosthetic mandate benefit, we are more neutral to this bill, even though we are still generally opposed to health insurance benefits being mandated in state law. The reason I say that is the example of the prostate cancer screening benefit that I mentioned before.

You will note that this bill has been amended to comply with the mandate review process through PERS as specified in state law. That is why the bill includes an appropriation since the current PERS benefits as defined by the PERS Board and ultimately the legislature did not include BCBSND's standard benefits, which include the microprocessor based prosthetics. This bill will provide that additional benefit and is reflected in that appropriation. With the review process, if passed the actual costs will be tracked during the next biennium and PERS will be required to provide a report and a bill for consideration during the next legislative session to apply this mandate on all health insurers beginning August 1, 2011.

Mr. Chairman and Committee Members, I would be willing to answer any questions the committee may have.

The Cost of Health Insurance Mandates

While BCBSND does not necessarily oppose any of these mandated benefits and providers, it is important to note the true costs of establishing mandates

Mandated Benefits	Professional Payments	Institutional Payments
Alcohol/Drug Abuse Treatment	$ 1,768,007	$ 9,458,986
Breast Reconstruction	$ 374,595	$ 423,783
Dental Anesthesia	$ 81,460	$ 112,924
Emergency Services	$ 6,504,812	$ 97,883,617
Mammography Screening	$ 3,235,295	$ 1,457,612
Mental Health (General)	$ 18,737,661	$ 12,953,340
Minimum Maternity Stay	NA	$ 16,087,316
Prostate Cancer Screening	$ 554,762	$ 68,537
TMJ Disorders	$ 64,482	$ 85,534
TOTAL	**$ 31,321,074**	**$ 138,531,649**

Mandated Provider	Professional Payments
Chiropractors	$11,617,662
Nurse Midwives	$ 871,374
Nurse Anesthetists	$ 7,827,477
Nurse Practitioners	$12,930,959
Nurse, Psychiatric	$ 732,208
Professional Counselors	$ 1,535,765
Psychologists	$ 6,874,774
Social Workers	$ 2,047,420
Lincensed Addiction Counselors	$ 1,084,391
TOTAL	**45,522,030**

2008 GRAND TOTAL $215,374,753

Cost of Health Insurance Mandates