

2021 HOUSE HUMAN SERVICES

HB 1326

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1326
1/18/2021 2pm

To provide for exemption of federal coronavirus stimulus funds for the service payments for elderly and disabled and the basic care programs; and to declare an emergency

Chairman Weisz opened the hearing at 2:00 p.m.

Representatives	Roll Call
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Medicaid Waver
- Uncountable income

Representative Robin Weisz, District 14 (2:03) introduced the bill.

Shelly Peterson, President North Dakota Long Term Care Association (2:06) testified in favor.

LeeAnn Thiel, Assistant Director Medical Services Division ND Department of Human Services (2:10) testified in favor and submitted testimony #1118.

Nancy Nikolas Maier, Director ND DHS Aging Services Division (2:13) testified in favor and submitted testimony #1201.

Chairman Weisz adjourned at 2:14 p.m.

Tamara Krause, Committee Clerk

Testimony
House Bill 1326 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
January 18, 2021

Chairman Weisz, members of the House Human Services Committee, I am LeeAnn Thiel, Assistant Director of the Medical Services Division, for the Department of Human Services (Department). I am here today in support of House Bill 1326.

The Department did emergency rules in May 2020 to North Dakota Administrative Code 75-02-10 to exempt the first round of federal stimulus payments that individuals received from income for determining eligibility for the basic care assistance program. As you are aware these federal stimulus payments were determined and distributed by the federal government in response to the COVID pandemic. This bill will exempt the second round of federal, COVID-related payments from being counted as income as well. If the bill is enacted into law, it will allow the individual to keep the payment.

It is important to note that individuals who receive a federal stimulus payment, in the first or second distribution of COVID-related funds, still must spend these dollars so they do not negatively impact their Medicaid eligibility, particularly if they are comingled with other funds. For example, suppose a basic care resident who is eligible for Medicaid received the \$1,200 federal stimulus payment and deposited it in their existing savings account. Once those funds are comingled it would not be possible, upon Medicaid redetermination, to determine which of those funds were existing savings and which were stimulus funds. The entire

amount in the savings account would be considered at redetermination and could put them over the asset limit. Even if this law were passed, the Department still must follow federal regulations for determining Medicaid eligibility.

I would be happy to answer any questions that you may have.

Testimony
House Bill 1326 - Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman

January 18, 2021

Chairman Weisz and members of the Human Services Committee, I am Nancy Nikolas Maier, Director of the Aging Services Division for the Department of Human Services (Department). I appear today to provide testimony in support of House Bill 1326.

The Department did emergency rules in May 2020 to North Dakota Administrative Code 75-03-23 to exempt the first round of federal stimulus payments that individuals received from income for determining eligibility for the Service Payment to the Elderly and Disabled program. As you are aware these federal stimulus payments were determined and distributed by the federal government in response to the COVID pandemic.

This bill will exempt the second round of federal, COVID related payments from being counted as income and a resource as well. If this bill is enacted into law, it will allow the individual to keep the payment and it will not impact eligibility.

This concludes my testimony. I will be happy to answer and questions you may have.

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1326
1/18/2021 3pm

To provide for exemption of federal coronavirus stimulus funds for the service payments for elderly and disabled and the basic care programs; and to declare an emergency.
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Chairman Weisz called the committee meeting to order at 3:00 p.m.

Representatives	Roll Call
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics: HB 1326 committee action

Rep. Kathy Skroch made a motion for a **Do Pass**.

Rep. Gretchen Dobervich seconded the motion.

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y

Representative Bill Tveit	Y
Representative Greg Westlind	Y

Motion carried 14-0-0

Bill Carrier: Rep. Bill Tveit

Chairman Weisz adjourned at 3:03 p.m.

Tamara Krause, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1326: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1326 was placed on the Eleventh order on the calendar.

2021 SENATE HUMAN SERVICES

HB 1326

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Sakakawea Room, State Capitol

HB 1326
3/3/2021 AM

A BILL for an Act to provide for exemption of federal coronavirus stimulus funds for the service payments for elderly and disabled and the basic care programs; and to declare an emergency

Madam Chair Lee opened the hearing on HB 1326 at 9:44 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

Discussion Topics:

- Medicaid eligibility
- Asset limits
- SPED and expanded SPED
- Future payment exemption

[9:45] Representative Robin Weisz, District 14. Introduced HB 1326.

[9:53] LeeAnn Thiel, Assistant Director, Medical Services Division, DHS. Provided testimony #7151 in favor.

[9:57] Nancy Nikolas Maier, Director, Aging Services Division, DHS. Provided testimony #7162 in favor.

[10:00] Shelly Peterson, President, ND Long Term Care Association. Provided oral testimony in favor.

[10:03] Mandy Dendy, Legal Assistant, ND Protection and Advocacy Project (P&A). Provided neutral testimony #7131.

Additional written testimony: (1)

Senator Judy Lee, District 13. Provided proposed amendment 21.0799.01001 (testimony #7208 and #7209).

Madam Chair Lee closed the hearing on HB 1326 at 10:10 a.m.

Justin Velez, Committee Clerk

Testimony
House Bill 1326 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
March 3, 2021

Chairman Lee, members of the Senate Human Services Committee, I am LeeAnn Thiel, Assistant Director of the Medical Services Division, for the Department of Human Services (Department). I am here today in support of House Bill 1326.

The Department did emergency rules in May 2020 to North Dakota Administrative Code 75-02-10 to exempt the first round of federal stimulus payments that individuals received from income for determining eligibility for the basic care assistance program. As you are aware these federal stimulus payments were determined and distributed by the federal government in response to the COVID pandemic. This bill will exempt the second round of federal, COVID-related payments from being counted as income as well. If the bill is enacted into law, it will allow the individual to keep the payment.

It is important to note that individuals who receive a federal stimulus payment, in the first or second distribution of COVID-related funds, still must spend these dollars so they do not negatively impact their Medicaid eligibility, particularly if they are comingled with other funds. For example, suppose a basic care resident who is eligible for Medicaid received the \$1,200 federal stimulus payment and deposited it in their existing savings account. Once those funds are comingled it would not be possible, upon Medicaid redetermination, to determine which of those funds were existing savings and which were stimulus funds. The entire

amount in the savings account would be considered at redetermination and could put them over the asset limit. Even if this law were passed, the Department still must follow federal regulations for determining Medicaid eligibility.

I would be happy to answer any questions that you may have.

Testimony
House Bill 1326 - Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman

March 03, 2021

Chairman Lee and members of the Human Services Committee, I am Nancy Nikolas Maier, Director of the Aging Services Division for the Department of Human Services (Department). I appear today to provide testimony in support of House Bill 1326.

The Department did emergency rules in May 2020 to North Dakota Administrative Code 75-03-23 to exempt the first round of federal stimulus payments that individuals received from income for determining eligibility for the Service Payment to the Elderly and Disabled program. As you are aware these federal stimulus payments were determined and distributed by the federal government in response to the COVID pandemic.

This bill will exempt the second round of federal, COVID related payments from being counted as income and a resource as well. If this bill is enacted into law, it will allow the individual to keep the payment and it will not impact eligibility.

This concludes my testimony. I will be happy to answer and questions you may have.

SENATE HUMAN SERVICES COMMITTEE

Sixty-seventh Legislative Assembly of North Dakota

H.B. 1326

March 3, 2021

Greetings, Chairman Lee and members of the Committee. I am Mandy Dendy, a legal assistant with the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency that acts to protect persons with disabilities from abuse, neglect, and exploitation, and one that advocates for the human, civil, and legal rights of persons with disabilities.

American philosopher John Dewey said, "A problem well stated is a problem half solved". I will attempt to be well stated today. I bring before you both a problem and a proposed solution. House Bill 1326 is a bill to exempt from consideration as income or resources federal coronavirus stimulus funds for two groups of people. The first group is residents who live in basic care facilities. The second group is participants in the service payments for elderly and disabled (SPED) program. This program serves older or physically disabled individuals who have difficulty completing tasks that enable them to live independently at home.

On its face, the bill accomplishes its goal. To understand where the problem comes in, we need to briefly look at what brought us to this point. In May 2020, Governor Burgum announced an emergency rule change which exempted from consideration as income or resources federal coronavirus stimulus funds issued pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act for SPED program participants and residents of basic care.

Then additional stimulus funds were issued pursuant to the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 in December 2020. Because the administrative rule change only referred to CARES Act stimulus funds, House Bill 1326 came about to extend the exemption. Now additional stimulus funds are being considered under the American Rescue Plan Act of 2021. Because that law is not mentioned in the administrative rule change, nor is it mentioned in this bill, and there is not a “catch-all” provision exempting future stimulus monies arising out of the COVID-19 federal emergency, the concern is that future stimulus monies will not be exempted as consideration of income or resources for SPED participants or basic care residents.

If I’ve been well stated thus far, here’s my attempt at a solution. I’m asking you to amend House Bill 1326 to include the American Rescue Plan Act of 2021 and a “catch-all” provision referring to any other legislation which authorizes stimulus funds pursuant to the COVID-19 federal emergency declaration. I have attached proposed amended language for your consideration. I believe amending House Bill 1326 to include the American Rescue Plan Act of 2021 as well as a future “catch-all” provision will put this issue to rest once and for all.

Thank you for your time. I’m happy to answer any questions.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1326

Page 1, line 9, before “are” insert “and American Rescue Plan Act of 2021 or any other law authorizing stimulus funds as a result of the federal coronavirus pandemic emergency declaration”

Renumber accordingly

21.0799.01001
Title.

Prepared by the Legislative Council staff for
Senator Lee

March 2, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1326

Page 1, line 5, replace "Under" with "During the 2019-21 and 2021-23 bienniums, under"

Page 1, line 7, after the fourth comma insert "coronavirus"

Page 1, line 7, after "under" insert "federal law, including"

Page 1, line 8, after the closing bracket insert a comma

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1326

Introduced by

Representatives Weisz, J. Nelson

Senator Lee

1 A BILL for an Act to provide for exemption of federal coronavirus stimulus funds for the service
2 payments for elderly and disabled and the basic care programs; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. SERVICE PAYMENTS FOR ELDERLY AND DISABLED AND BASIC CARE**
5 **PROGRAMS - FEDERAL CORONAVIRUS STIMULUS FUNDS.** ~~Under~~During the 2019-21 and
6 2021-23 bienniums, under the service payments for elderly and disabled program, Medicaid
7 waiver for the aged and disabled program, and aid to vulnerable, aged, blind, and disabled
8 program, coronavirus stimulus funds received under federal law, including the federal
9 Coronavirus Response and Relief Supplemental Appropriations Act of 2021 [Pub. L. 116-260],
10 are not countable income or a resource.

11 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Sakakawea Room, State Capitol

HB 1326
3/3/2021 10:45 A.M.

A BILL for an Act to provide for exemption of federal coronavirus stimulus funds for the service payments for elderly and disabled and the basic care programs; and to declare an emergency.

Madam Chair Lee opened the discussion on HB 1326 at 10:54 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O Larsen.

Discussion Topics:

- Proposed amendment from Mandy Dendy.
- Governor executive order

Senator K. Roers moves to **ADOPT AMENDMENT** on line 8, after “2021” insert “or any other law authorizing stimulus funds as a result of the federal coronavirus pandemic emergency declaration”.

Senator Anderson seconded.

[11:02] **Senator Judy Lee, District 13.** Tabled amendment vote and recess to draft proposed amendment.

[11:10] **Senator Judy Lee, District 13.** Reconvenes discussion and provides committee with amendment draft (testimony #7298).

Senator K. Roers moves to **RESCIND ADOPT AMENDMENT** motion.

Senator Anderson seconded.

Senator K. Roers moves to **ADOPT AMENDMENT** 21.0799.01001

Senator Anderson seconded.

Voice Vote – Motion passed.

Senator K. Roers moves to **FURTHER AMEND** to include on line 8, after “[Pub. L. 116-260]” insert “or any law authorizing stimulus funds as a result of federal coronavirus pandemic emergency declaration”

Senator Anderson seconded.

Voice Vote – Motion passed.

Senator K. Roers moves **DO PASS, AS AMENDED.**

Senator Hogan seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	Y

Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	Y

The motion passed 6-0-0

Senator Anderson will carry HB 1326.

Additional written testimony: N/A

Madam Chair Lee closed the discussion on HB 1326 at 11:20 a.m.

Justin Velez, Committee Clerk

21.0799.01001

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1326

Introduced by

Representatives Weisz, J. Nelson

Senator Lee

1 A BILL for an Act to provide for exemption of federal coronavirus stimulus funds for the service
2 payments for elderly and disabled and the basic care programs; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. SERVICE PAYMENTS FOR ELDERLY AND DISABLED AND BASIC CARE**

5 **PROGRAMS - FEDERAL CORONAVIRUS STIMULUS FUNDS.** 8fteefDuring the 2019-21 and

6 2021-23 bienniums. under the service payments for elderly and disabled program, Medicaid

7 waiver for the aged and disabled program. and aid to vulnerable. aged. blind. and disabled

8 program, coronavirus stimulus funds received under federal law. including the federal

9 Coronavirus Response and Relief Supplemental Appropriations Act of 2021, or any other law

authorizing stimulus funds as a result of federal coronavirus pandemic emergency declaration

[Pub. L. 116-260], are not countable income or a resource.

10 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

March 3, 2021

3/3
of 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1326

Page 1, line 5, replace "Under" with "During the 2019-21 and 2021-23 bienniums, under"

Page 1, line 7, after the fourth comma insert "coronavirus"

Page 1, line 7, after "under" insert "federal law, including"

Page 1, line 8, after the closing bracket insert "or any other law authorizing stimulus funds as a result of the federal coronavirus pandemic emergency declaration,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1326: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1326 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "Under" with "During the 2019-21 and 2021-23 bienniums, under"

Page 1, line 7, after the fourth comma insert "coronavirus"

Page 1, line 7, after "under" insert "federal law, including"

Page 1, line 8, after the closing bracket insert "or any other law authorizing stimulus funds as a result of the federal coronavirus pandemic emergency declaration,"

Renumber accordingly

21.0799.01001

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1326

Introduced by

Representatives Weisz, J. Nelson

Senator Lee

1 A BILL for an Act to provide for exemption of federal coronavirus stimulus funds for the service
2 payments for elderly and disabled and the basic care programs; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. SERVICE PAYMENTS FOR ELDERLY AND DISABLED AND BASIC CARE**

5 **PROGRAMS - FEDERAL CORONAVIRUS STIMULUS FUNDS.** 8fteefDuring the 2019-21 and

6 2021-23 bienniums. under the service payments for elderly and disabled program, Medicaid

7 waiver for the aged and disabled program. and aid to vulnerable. aged. blind. and disabled

8 program, coronavirus stimulus funds received under federal law. including the federal

9 Coronavirus Response and Relief Supplemental Appropriations Act of 2021, or any other law

authorizing stimulus funds as a result of federal coronavirus pandemic emergency declaration

[Pub. L. 116-260], are not countable income or a resource.

10 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.