

2005 HOUSE HUMAN SERVICES

HB 1465

## 2005 HOUSE STANDING COMMITTEE MINUTES

#### **BILL NO. HB 1465**

## **House Human Services Committee**

☐ Conference Committee

Hearing Date January 31, 2005

v		0.0.15.0
A		0.0-15.0
M		
	A .	At .

Minutes:

<u>Chairman Price:</u> opened the hearing on HB 1465. Anyone that would like to testify in favor of the bill?

Mr. Muse: I think I have discussed discussed all the basic issues. In paragraph one we talked about who we wanted to cover in that.

Mr. Zentner: Paragraph two we discussed the reciprocal agreement we have with our friends in Minnesota. Paragraph three I think we have a concern about mental illness and can certainly work with you on that issue. Four is on the post office and five diagonogistic procedures. Six if we are interested in not covering anything that is fine; if we are interested in the possibility of where we might be able to get a federal match for a certain item that they are not covering maybe that is a consideration. I understand there is some possibility, if they don't cover a certain drug that we might be able to cover it and get federal match. That would be the only time we would want to get involved in that. I think we covered the other areas. The only area that I did want to

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House Human Services Committee
Bill Number HB 1465
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basically said we run a pretty good program here. That is not only a reflection on me, but I do want to acknowledge my staff for the good works that they do. I think it would be a shame to break up our team by out sourcing some of the vital functions that are important to the overall success of the program. (see attached Proposed Amendment)

Chairman Price: (3.7) Questions for Mr. Zentner?

**Rep. Kaldor:**(3.7) Relative to the date coming around what thought have you given to what we should be doing? Other than a plan are there other mechanisms to be put in place so we are not totally blind sided?

Mr. Zentner:(4.2) I have been in a little bit of denial on this issue myself. I think we do need to examine issues and I think the time frame is not unreasonable that we think these things through by the end of the summer. For example, he mentioned computer systems. We are not planning to make any major changes to our system. If someone insists that we make the determination whether they are eligible for a subsidy or not we have to do that. We are convinced that most people are not going to care whether we do it or social security does it. Our plan is to ship it off to social security. If we have someone insisting we do it, to make the computer changes is not cost effective so in those cases we would do those by hand and then enter it into the process so the feds know who they are. We just need to plan. We did not think there was anything needed to change in state law. We understand how we have to prepare for emergencies, but this is new to every body and it is a little scary because you are turning over 42,000,000 people and 6,000,000 are low income to a program that hadn't operated before. It happens January 1. There will be problems but a good plan will help us know where we stand and where we need to go.

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Mr. Zentner: (6.4) I would suggest that if we need some outside help I am gonna need some money.

Bruce Murray(6.9) Staff attorney with protection and advocacy project. If there were to be a study or working group, I think it would be helpful to have some sort of consumer representation on that working group. Whether it be for the Centers of Independent Living or Mental Health Association in ND. I think some of these for mental illness issues during the January transition and some of the special purpose prescription brokerage firms.

<u>Chairman Price:</u> Asked if there was any opposition. Any other questions out there? closed hearing (7.8)

Chairman Price: reopened the hearing for discussion.

Rep. Devlin: (8.4) I see no way in the whole the department is going to do this in the time frame they need to do it without a consultant of some kind. If we need to put language and funding and an emergency clause, I think we need to do this.

**Rep. Potter:** Is there any way to add something onto this bill. Or are you afraid that would kill this bill?

**Rep. Devlin:**(9.0) I am not so sure the emergency clause would pass on this whole bill when we get done.

**Rep. Damschen**: What is the practicality of having a plan ready without some additional staff or consultant and definitely funding.

Rep. Kaldor: (10.0) What about the fiscal note. What about the agencies prospective on the fiscal note? I am assuming this was prepared by the department.

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<u>David Zentner</u>:(10.5) That is correct. We based it on the bill as it was presented to us. The majority of that deals with the first area where you talked about wanting to case manage everybody practically in the Medicaid program, because 68% of our people have two or more diagnosis. The other cost we tried to get in there was the photo ID and how much that would cost. Then any savings that we could generate from prior authorizing some of those high costs. We assumed 15% savings.

Rep. Potter: At the end of our testimony you talked about out sourcing; that seems to be a concern about. I was thinking after it was up and running. Could you help me answer that?

David Zentner:(11.7) What I was really referring to was to procurement on the MMIS system.

Two ideas: we keep the entire project in house or we contract it out for certain items like claims processing and provider relations and the operations of the system. MMIS system should be driven by efficiencies and we do run a good program here and that is because of the people.

Rep. Devlin: When we were discussing photo ID's it was suggested we use drivers license in the state for every body that has a drivers license and then go from there for the tribal or whatever you needed to get to without that. Have you ever talked about that? How much population does not have a drivers license and needs a photo ID?

David Zentner: (13.1) We have allot of the kids on the program so you are going to have half our population is under 21 so there is going to be some between 16-21 that are going to have licenses, but you are going to have 15-20 thousand kids at any one time who aren't going to have a license and then you got 3500 people in nursing homes. I don't know how many of them would have a drivers license anymore. We thought about that because that is where the photos are at. You could start with the photo, but we still need a magnetic strip on that card so you can

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swipe it right away to see if there is eligibility right away. It would be a start if we could
somehow use the photo that was there, and get that and transfer it to the card we have to produce,
that might be a possibility. I don't know how available those photos are?

Adjourned (15.0)

Réfuence HB 1465

## 2005 SENATE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. Joint Committee Meeting

## **Senate Human Services**

☐ Conference Committee

Hearing Date January 31, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-6050
1		Х	0-6024
2	X		0-3700
Committee Clerk Signature	Stelson	)	

Chairman Price opened the joint meeting of the House and Senate Human Services

Committees.

Representative Devlin - Introduced Don Muse of Don Muse Associates of Washington D.C., an expert on Medicaid and Medicare Drug Plans. He gave an overview of Medicaid's history.

**Don Muse** - Gave his personal information. Believes Medicaid provides an enormous, important service to almost 35 million people. He said Medicaid is slowly eating state budgets and is generally perceived as being out of control. He believes it can be fixed so it's good for people and gets the program under control.

He continued with his written testimony. See Attachment

Page 2 Senate Human Services Bill/Resolution Number Joint Committee Meeting Hearing Date January 31, 2005

There were general questions on drug plans from committee members at the end of his presentation.

Chairman Price thanked Mr. Muse and closed the meeting.

## 2005 HOUSE STANDING COMMITTEE MINUTES

#### **BILL NO. HB 1465**

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

☐ Conference Committee

Hearing Date February 2, 2005

Tape Number	Side A	Side B	Meter #
1		X	05.5.7
Committee Clerk Signatur	· Wilson	1	

Minutes:

Chairman Price: reopened hearing on HB 1465. (see enclosed Proposed Amendment) This bill only deals with Medicare modernization act. The other pieces of Don Muse's report is in a different bill. Because we wanted to be sure we got the emergency clause on this so that the department could hire right away and get started on this and have more time to get the public aware and have a plan for enrolling them. You will see in chapter 54-44.4 shall not apply. That means they do not have to fill out an RFT for this job. They can just go out and hire Don. He is on Capital Hill, if they are comfortable with him and what he charges they can hire him. We did try to protect the state and state dollars in points 1, 2 & 3 and yet try to protect the citizens. The first one is federal. If you have Part B, that is where you get your drugs. Part 2, there are certain drugs we can pay for using pay funds. If they are not covered under Part B then they are not considering it a necessary drug. We want to protect the state. We know there will be some federal participation and we have no idea if it is 20% or 40%, 60% whatever. The state can pay

for those drugs, if they feel it is necessary for the individual. The reason they put in the necessary is there may be some lifestyle drugs come along or something and we don't necessarily want to put state dollars into them if they are not medically necessary. The third one; this is to cover the people the first 45 days if for some reason, they do not get enrolled through no fault of their own so they can have those necessary drugs. Appropriations as we talked about 50 state and 50 federal. It may cost a little less, but that is the max that he said the contract would cost gives us everything. We wanted to be sure we had everything to get through this long process. Are there any questions on the bill in front of you?

**Rep. Kaldor:** (2.5) Relative to the requirements on 55-44? Are we going to have any signing off on that? I am sure there is a pretty lengthily timeline in that RFP process. You are talking at least a couple of months.

**Rep. Potter:**(3.2) How do they not do the RFP? I thought if you got this kind of money they have to do it.

<u>Chairman Price</u>: It says the requirements of chapter 54-44.4 shall not apply. That is the chapter that says they have to so that is how they get around it.

**Rep. Sandvig:** Who is the consultant?

<u>Chairman Price</u>: Don Muse. His quote was this will be six months of hell. We did fax the offer to him, but he is not back in Washington DC yet.

Motion made by Rep. Potter to accept the amendment Seconded by Rep. Kaldor Voice vote carried. No opposition.

<u>Chairman Price:</u> You have an amended bill in front of you; obviously it will need to go to appropriations.

Page 3 House Human Services Committee Bill Number HB 1465 Hearing Date February 2, 2005

Motion Made By Rep. Nelson Seconded by Rep. Potter

DO PASS AS Amended 11 Yes 0 No 1 Absent Carrier: Rep. Price

To be re-referred to approperations.(5.8)

## **FISCAL NOTE**

## Requested by Legislative Council 02/07/2005

Amendment to:

HB 1465

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to

funding levels and appropriations anticipated under current law.

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$50,000				
Expenditures	\$50,000	\$50,000				
Appropriations	\$50,000	\$50,000				

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

2003	3-2005 Bienn	ium	2005	5-2007 Bienn	ium	2007	7-2009 Bienn	ium
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill would create and enact a new section to NDCC chapter 50-24.1 relating to the management of the state medical assistance program and to provide for the development of a plan for the implementation of the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

This bill is declared to be an emergency measure.

- 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.

The department would receive federal title XIX funds totalling \$50,000 for the 2003-2005 biennium.

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.

The department would incur an increase in operating expenditures for the development of the plan totalling \$100,000, with \$50,000 being general funds for the 2003-2005 biennium.

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

The department would need an increase in appropriations totalling \$100,000 for the 2003-2005 biennium, with \$50,000 being general funds.

Name:	Debra A. McDermott	Agency:	Human Services	
Phone Number:	328-3695	Date Prepared:	01/09/2005	



## **FISCAL NOTE**

## Requested by Legislative Council 01/18/2005

Bill/Resolution No.:

HB 1465

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to

funding levels and appropriations anticipated under current law.

	2003-2005 Biennium		2005-2007	Biennium	2007-2009 Biennium		
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	
Revenues	\$0	\$0	\$0	\$1,407,315	\$0	\$1,421,858	
Expenditures	\$0	\$0	\$1,473,657	\$1,407,315	\$1,482,542	\$1,421,858	
Appropriations	\$0	\$0	\$1,458,657	\$1,392,315	\$0	\$0	

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

2003	3-2005 Bienn	ium	2005	-2007 Bienn	ium	2007	'-2009 Bienn	ium
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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



This bill would create and enact a new section to NDCC chapter 50-24.1 relating to the management of the state medical assistance program. Sections 1.1., 1.7. and 1.8. of the bill would cause fiscal impact in the department's regular appropriation.

- 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.

The department would receive federal title XIX funds totalling \$1,407,315 for 2005-2007 and \$1,421,858 for 2007-2009.

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.

The department would incur an increase in operating expenditures totalling \$3,103,596 and a decrease in medical assistance grant expenditures by an estimated \$222,624 for 2005-2007. The general fund impact would be \$1,473,657. In 2007-2009 the department would incur an increase in operating expenditures of \$3,133,747 and a decrease in medical assistance grants of \$229,347. The general fund impact for 2007-2009 would be \$1,482,542.

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

The department would need an increase in appropriations totalling \$2,850,972 for 2005-2007, \$1,458,657 of which would be general funds.

Name:	Debra A. McDermott	Agency:	Human Services
Phone Number:	328-3695	Date Prepared:	01/31/2005

Date: 2/2/05

1-And 11-0-1
Roll Call Vote #: 2 - Dol. A-R.b-11-0-1

# 2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. HB1465

House	Human	Servi	ces	Com	mittee
Check here for Conference (	Committee				
Legislative Council Amendment	Number _				_
Action Taken Do Pass A	sAm.	Rex	. Repres.	·	
Action Taken Do Phase A.  Motion Made By	<u>~</u>	Se	econded By	)	
Representatives	Yes	No	Representatives	Yes	No
Chairman C.S.Price	7		Rep.L. Kaldor	1	
V Chrm.G. Kreidt	~		Rep.L. Potter	1	
Rep. V. Pietsch	~		Rep.S. Sandvig		
Rep.J.O. Nelson	1				
Rep.W.R. Devlin	•				<u> </u>
Rep.T. Porter	1				
Rep.G. Uglem	1				
Rep C. Damschen	~				
Rep.R. Weisz	AB				
Total ( ) 11 425	<u> </u>	No	0		
Absent Floor Assignment	On an an	nendm	ent, briefly indicate intent:		

Module No: HR-31-3373

Carrier: Price

Insert LC: 50764.0101 Title: .0200

#### REPORT OF STANDING COMMITTEE

HB 1465: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1465 was placed on the Sixth order on the calendar.

Page 1, line 2, after "program" insert "; to provide for a report; to provide an appropriation; and to declare an emergency"

Page 1, replace lines 6 through 24 with:

"Medical assistance and medicare prescription drug management program. The department of human services, with respect to the state medical assistance program, shall develop a plan for the implementation of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1]. The department may purchase the services of an outside consultant to assist in the development of the plan. The requirements of chapter 54-44.4 do not apply to the purchase of the consultant services. The department may not pay for:

- A prescription drug that is within a class of drugs covered under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1] and which is prescribed to a medical assistance recipient who is also a medicare beneficiary.
- 2. A prescription drug that is not covered and for which no drug in its class is covered under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1] and which is prescribed for an individual who is a medical assistance recipient and a medicare beneficiary unless federal medical assistance matching funds are available at no less than the federal medical assistance percentage and the department determines that the drug is medically necessary for the individual.
- 3. A prescription drug for which federal medical assistance matching funds are not available except that until February 15, 2006, the department may pay for the drug in an emergency to ensure that a medical assistance recipient who is also a medicare beneficiary may continue to receive appropriate medications after implementation of the medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1]. The department may seek a deficiency appropriation if necessary to cover the cost of payment for drugs provided under this subsection.

**SECTION 2. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the department of human services shall report to the legislative council regarding the department's progress in developing and implementing the plan provided for in section 1 of this Act.

**SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the department of human services for the purpose of supplementing other appropriations provided for the medical assistance program to defray the expenses associated with developing and implementing the plan described in section 1 of this Act for the biennium beginning July 1, 2005, and ending June 30, 2007.

# REPORT OF STANDING COMMITTEE (410) February 17, 2005 2:13 p.m.

Module No: HR-31-3373

Carrier: Price

Insert LC: 50764.0101 Title: .0200

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Page 2, remove lines 1 through 3

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1465

#### 2005 HOUSE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. 1465 New Code in Management of State Medical Assistance Program

House Appropriations Committee Human Resources Division

Hearing Date: 2-10-05 Thursday a.m.

Tape Number	Side A	Side B	Meter #
I	X		12.5 - 25.7
I	X		36.0 - 38.2

Minutes: Chairman Delzer opened the meeting on HB 1465.

Rep. Clara Sue Price, District 40, referred to Don Muse' presentation. The intent of the committee was to give the Department of Human Services the ability to make and implement a plan for medical assistance and Medicare prescription drug management. First, the Department will not cover drugs under part D. Second, some drugs can be paid for if they have a federal match and deemed necessary. Third, it allows the department to allow 45 days to get ineligibles (i.e. Walk-ins after January 10) enrolled and continue care treatment. This is an appropriation with 50/50 matching from the feds. The department will not have to develop a RFP as there is an emergency clause.

Chairman Delzer: Why did you put in lines seven and eight? I disagree with that.

Rep. Price: It was put in at the discretion of the department.

After discussion on the allotted \$50,000, **Chairman Delzer** asked Legislative Council to confirm whether or not the emergency clause allows for the money to be spent during the current

Page 2 Human Resources Division Bill/Resolution Number 1465 Hearing Date: 2-10-05

biennium. He also asked LC how to best word keeping everyone apprised of what is going on (i.e. PERS, insurance, and other agencies). The bill will be held until this information is available.

(On Tape I Side A Meter 36.0-38.2):

Chairman Delzer: Celeste, maybe you could explain this note you handed me on the \$50,000.

Celeste/OMB: When we approved the \$50,000 appropriation with the emergency clause, the department could spend the money this biennium. And whatever is leftover is automatically

transferred to the 05-07 biennium within their department.

Chairman Delzer: How does it show up on the report?

**Celeste/OMB:** We have this in the emergency clause only. We have to show it is an expense in 03-05. We use adjusted appropriations when analyzing the budget.

### 2005 HOUSE STANDING COMMITTEE MINUTES

## **BILL/RESOLUTION NO. 1465**

House Appropriations Committee Human Resources Division

Hearing Date: 2-11-05 Friday a.m.

Tape Number	Side A	Side B	Meter #
II	X		43.8 - 52.4

Minutes: Chairman Delzer called the meeting to order on HB 1465 and distributed proposed amendments.

Chairman Delzer: This bill provides for a \$50,000 appropriation to hire a consultant for the MMA part D in January 06. In subsection two and three the actual cost all goes for general funds. The federal government will not participate at that time. The bill is pretty well set up. The amendment removes lines 7 and 8. Yesterday, we had a discussion about whether the date on the money needed to be changed so it could be used in this biennium.

**Allen/LC:** They have the authority to spend it in 03-05, but it will not show up until 05-07.

**Rep. Larry Bellew:** I move the amendment 50764.0201.

Rep. Alon C. Wieland: I second it.

Chairman Delzer: Motion carries with voice vote

Rep. Ralph Metcalf: I move Do Pass As Amended.

Rep. James Kerzman: I second it.

Page 2 Human Resources Division Bill/Resolution Number 1465 Hearing Date: 2-11-05

Vice Chair Pollert: If MMA comes across, is this bill necessary?

**Chairman Delzer:** It is coming from the President whether we are ready or not. This gives them the tool to try and be ready. Clerk will take the roll. Motion carries 6-0.

Rep. Pollert will carry the bill to full committee. Rep. Price will be asked to take it to the Floor.

### 2005 HOUSE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. HB1465 Management of State Medical Assistance Program

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 14, 2005

Tape Number	Side A	Side B	Meter #
2	X		#11.1 - #19
	Λ	1	
Committee Clerk Signatu	ire Mrs	Hexano	ler

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1465.

**Rep. Chet Pollert** explained that this bill was regarding the Medicaid Modernization Act (MMA) that specifically deals with prescription drugs. An outside consultant may be hired to help with the implementation of MMA. The committee delete lines 7 and 8 regarding the deficiency appropriation and we removed line 17 where it said "for the biennium beginning July 1," and put in "beginning with the effective date of this act. The appropriation for this is \$50,000 on a 50/50 match.

Rep. Jeff Delzer commented that the effect of this is so that they can do this right away because of timelines in Part B in Medicare This effects the overall drug budget. In July of 2006 individuals who are eligible for Medicare and Medicaid who were currently paying for their drugs under Medicaid, they will become eligible and be required to get their drugs through Medicare. This should reduce Medicaid funding but then we have a claw back where they take

back 90% of whatever we spend on this group in 2003 and there are all sorts of timelines and things and this bill will allow them to go out and hire Muse and Associates to help them set up the plan because of the timelines that are in it.

**Rep. Chet Pollert** moved to adopt amendment 0201 to HB1465.

Rep. David Monson seconded.

**Rep. Ken Svedjan, Chairman** commented on the claw back or state contribution and asked if there were fund in the budget for this.

**Rep. Jeff Delzer** answered that there was no change in the money needed and the claw back is less so there should be enough funding in there.

**Rep. Ken Svedjan, Chairman** explains that the claw back relates to the savings that the states should realize from moving populations off the Medicaid Prescription Drug plan to the new part B of the Medicare Modernization Act, and then asked if the department understood that all these folks would stay in Medicare when they planned their budgets?

**Rep. Jeff Delzer** answered yes.

**Rep. Ken Svedjan, Chairman** called for a voice vote on the motion to adopt amendment #0201 to HB1465. Motion carried

**Rep. Chet Pollert** moved a Do Pass As Amended motion on HB1465.

Rep. Bob Skarphol seconded.

**Rep. Eliot Glassheim** asked if there were any services being cut in any of this.

**Rep. Ken Svedjan, Chairman** answered that this had little to do with services since the money is to hire a consultant to develop a plan to move folks from Medicaid Prescription Drugs to Part

Page 3 House Appropriations Committee Bill/Resolution Number HB1465 Hearing Date February 14, 2005

B of the new Medicaid Modernization Act. This is extremely important to the state to move as many people as possible over to the new plan. (meter Tape #2, side A, #16.2)

**Rep. Jeff Delzer** commented that this allows \$50,000 to the department to help set up a plan for carrying out the federal requirements.

**Rep.** Chet Pollert commented on page 2, lines 1 and 2 where there is a provision to take care of prescription drugs if there is an open window in the transition.

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass As Amended motion on HB1465. Motion carried with a vote of 21 yeas, 0 neas, and 2 absences. Rep Pollert will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed discussion on HB1465.

Prepared by the Legislative Council staff for House Appropriations - Human Resources February 10, 2005

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 2, remove lines 7 and 8

Page 2, line 17, replace "for the biennium beginning July 1, 2005" with "beginning with the effective date of this Act"

Renumber accordingly

Date: 2/11/05
Roll Call Vote #:

# 2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1465

House Appropriations - Human	n Resou	rces		Committee
Check here for Conference Com	mittee			
Legislative Council Amendment Nur	nher	501	764.0201	
	-		A	
Action Taken DO PAS	3 AS A	MEN	DED	<del></del>
Motion Made By Rep. Metca	¥	Se	conded By Rep. Kerzm	an
Representatives	Yes	No	Representatives	Yes No
Chairman Jeff Delzer	V		Rep. James Kerzman	
Vice Chairman Chet Pollert	V		Rep. Ralph Metcalf	
Rep. Larry Bellew				_
Rep. Alon C. Wieland	V			
			***	
Total (Yes) 6		No	• <b>O</b>	
Absent				
Floor Assignment Rep. Polle	rt		(Possibly Rep. Price	to take to floo
If the vote is on an amendment, brief	ly indica	te inten	ıt:	
Allows money +	for a c	onsult.	ent for the MMA proce	ss, to be
spent this bier			·	

		Dali	Date: <u>February 14, 2005</u>	<u>;</u>	
		Koli	Call Vote #:1		
2005 HOUSE STAN BILL/RESOLUTI	DING C	COMM )	ITTEE ROLL CALL VOT HB1465	ES	
House Appropriations - Fu	ıll Comr	nittee			
Check here for Conference Con		•		_	
Legislative Council Amendment Nur	nber		50764.0201		
Action Taken DO PASS AS A	MENDI	E <b>D</b>			
Motion Made By <u>Rep Pollert</u>		<u> </u>	conded By <u><b>Rep Skarphol</b></u>		
Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	110
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	$\frac{1}{X}$	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	AB		Rep. Chet Pollert	$\frac{1}{X}$	
Rep. Francis J. Wald	X		Rep. Larry Bellew	$+\frac{x}{X}$	
Rep. Ole Aarsvold	X	_	Rep. Alon C. Wieland	X	
Rep. Pam Gulleson	AB		Rep. James Kerzman	$\frac{1}{X}$	—— <u> </u>
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	$\frac{1}{X}$	
Rep. Keith Kempenich	X			<del>                                     </del>	-
Rep. Blair Thoreson	X			┿╾┼	
Rep. Joe Kroeber	X			<del>                                     </del>	
Rep. Clark Williams	X			<del>1 +</del>	
Rep. Al Carlson	X			++	
Total Yes <u>21</u>		No	0	<u></u>	
Absent		2			
Floor Assignment Rep Pollert					
If the vote is on an amendment, briefly	indicate	intent:			

REPORT OF STANDING COMMITTEE (410) February 15, 2005 12:51 p.m.

Module No: HR-30-2963 Carrier: Pollert

Insert LC: 50764.0201 Title: .0300

## REPORT OF STANDING COMMITTEE

HB 1465, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1465 was placed on the Sixth order on the calendar.

Page 2, remove lines 7 and 8

Page 2, line 17, replace "for the biennium beginning July 1, 2005," with "beginning with the effective date of this Act"

Renumber accordingly

2005 SENATE HUMAN SERVICES

HB 1465

## 2005 SENATE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. Joint Committee Meeting

## **Senate Human Services**

☐ Conference Committee

Hearing Date January 31, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-6050
1		X	0-6024
2	х		0-3700
Committee Clerk Signature	<u> </u>		0-3700

## Chairman Price opens joint hearing.

Representative Devlin - Introduced Don Muse of Don Muse Associates of Washington D.C.

Foremost expert on Medicaid and Medicare Drug Plan. Gave an overview of Medicaid and how it came about.

## (meter # 200)

Don Muse - Gave his personal information. Believes Medicaid provides an enormous, important service to almost 35 million people. He said Medicaid is slowly eating state budgets and generally perceived as out of control. He believes it can be fixed so its good for people and gets the program under control. Medicare pays \$680 to pronounce someone dead.

He continues with written testimony.

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Page 2
Senate Human Services
Bill/Resolution Number Joint Committee Hearing
Hearing Date January 31, 2005
(meter #590)
(meter #1200 - page 8)
(meter #2000 - page 12)
(meter #3450 - page 14)
(meter #4800 - page 16)
(meter #5400 - page 19)
(meter #6050 - page 21)
End of tape 1, side A
Tape 1 side B
(meter 0)
(page 22)
(meter #640 - page 25)
(meter #1480 - page 27)
(meter #1600 - Break)
(meter #1640 - Back)
(meter #2252 - page 31)
(meter #5555 - page 38)
(meter #6024 - end of tape)
Tape 2 side A
(meter 0)
(page 40)
(meter #600 - page 42)
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Page 3
Senate Human Services
Bill/Resolution Number Joint Committee Hearing
Hearing Date January 31, 2005

(nieter #1600 - page 46)

Questions followed his presentation. End of presentation

(meter #3700)

## 2005 SENATE STANDING COMMITTEE MINUTES

## **BILL/RESOLUTION NO. HB 1465**

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 28, 2005

Tape Number	Side A	Side B	Meter #
1		X	4450-end
2	х		00-504
2		X	3,300-3955

Minutes:

Chairman Lee opened the public hearing on HB 1465. All members were present.

ð

This bill relates to the management of the state medical assistance program, to provide for a report, to provide an appropriation and to declare an emergency.

Representative Clara Sue Price, sponsor, introduced the bill.

Rep. Price: This is a piece from the Don Muse report; we did split them in two. This is the piece that deals with the MMA. We had to deal with this quickly, so our intent was to protect the citizens of North Dakota when this comes into play, January 1, 2006, but also to protect the state of North Dakota so they would not have to expend any dollars that was not necessary. Because so much is unknown about MMA and the final rules we tried to make the legislation flexible enough to do those two things. We did put money in for the department to hire a consultant for the implementation of the MMA. There is a timeline that is a little bit shorter than we thought it might be. I pulled it off the Internet on some of the pieces we've gotten. The first duty that the

Page 2
Senate Human Services Committee
Bill/Resolution Number HB 1465
Hearing Date February 28, 2005

stage task has to have done in July 15, 2005, then other deadline through 2005 so we don't have a lot of time until 1/1/06. We do hope Muse and Associates will be hired. We did put money in there, the piece you have at the beginning page 1 line 12 chapters 54-24.4 do not apply and that says we don't have to go out for the whole RFT process. If the department and the legislature is comfortable with Don Muse we can hire him and get this done quickly. Because of the deadlines that are looming--we're looking at an intense six months for planning and implementation. The first piece on the prescription drug list was that a class of drugs--this is what the three sections of what the department will not pay for. So if you have a drug that's covered under MMA, they have to get their drugs that way through the PDP, there isn't extra coverage from the department. Under section 2, there may be drugs that are not in those boxes and there is going to be some federal matching funds available, but we don't know yet the amount. So there is some flexibility that the department could cover some of those drugs if medically necessary. The third piece that concerned is trying to get these people enrolled, I'm not as confident as some are that everybody automatically January 1, 2006 will have their little card and they can walk in and get their drugs. I'm afraid that people will slip through the cracks. So we've put in number 3, a 45-day window, that if someone is a dual-eligible did not get through all the paper work, that they can still get their drugs. We don't want them to be pacing in front of the pharmacy window on January 10, being told they can't get their drugs. So this allows 45 days for the department to pay for those medications and that will be state funds. House Appropriations did take out the option in there for them to go for a deficiency appropriation, but that was done in Appropriations, that did not come out of our committee. And we want a report during this time saying how it's going. We tried to make it flexible but there may be infomation that has come to the department since we

wrote the bill that I'm not aware of and I'm not adverse to taking whatever needs to be done to make this be the piece we want it to be.

Chairman Lee: Did you have any concerns about eliminating the portion that would have allowed them to apply for emergency appropriation, or we don't really know what to expect for that 45-day window?

Rep. Price: A little bit. I think we should ask the department how it's going to effect them. We're hopeful that there will be efficiencies in the other bill you'll hear as targeting cash management, but again, that's already figured in to the reduction end and budget areas. It is an unknown to all of us. That's the unfortunate piece for some of these things coming through, we only meet every other year and we don't have all the rules and all the things we're going to have to play by, so we're trying to be flexible for everybody's sake.

Chairman Lee: My concern is that it takes some time and some money to get things set into place and even with targeted case management we're not going to see any real benefit in cost reduction until everything is rolling smoothly and it takes a while, and I know you share our concern with that as well.

Sen. Warner: I've been involved twice with the RFP process with the prisons and higher education. We had an outside consultant and felt we wound up with a product that was just a template. Do you have any confidence in the process, without using the RFP process, that we're going to get a product customized to North Dakota and our needs or simply some substitution language temple to speak of over broad things worked out ahead of time?

**Rep. Price:** I've been involved in four or five discussions with Muse and Associates, this was during the interim. One of the telling quotes from Mr. Muse was "this is going to be six months"

Page 4
Senate Human Services Committee
Bill/Resolution Number HB 1465
Hearing Date February 28, 2005

of hell." He's not just going to throw out that here's what's everybody's doing. I honestly believe that he will be actively involved with the department to try to tailor it to our needs. He has experience in this area, and has met with the department, so they have familiarity with him. I would ask Mr. Zentner that question. The feedback I've gotten from him is that Muse and Associates are knowledgeable and as easily to work with as anybody that is out there.

Kathy Hogan, County Director of the Week, Director of Cass County Social Services

We were thrilled to see this piece of legislation because we know this is one of the biggest system's change we're seen at the local level that will impact us significantly (all of our people on Medicare). We know the department has studied the issues but we feel that there should be a comprehensive plan and that we will be significantly impacted by it. For example, we're concerned whether or not we'll need additional staff--we have to make that budgeting decision by July, so we're going to be major players in this and we're thrilled to have some leadership from the outside.

#### **Neutral Testimony**

David Zentner, Director of Medical services for the Department of Human Services. See written testimony (Attachment 1). There are a lot of issues that have to be worked out before January 1, 2006--issues the federal government has to work out to make this happen. One of our major concerns is how this is going to work in a nursing home. Another issue, is how involved we have to get in the application process for the subsidy--we hope very little. We're hoping we don't have to make changes in the computer area, because we don't have the time, inclination or resources. We're hoping it works all right, but the federal government has no experience in

administering drug programs. They are going to farm it out to other groups to management, but it will be an interesting process.

Chairman Lee: Do you have a concern about having the language deleted that would authorize you applying for an emergency appropriation with the dual-eligibles when we don't know what going on here for a while?

Zentner: The reason we asked for that is because we're going to have a tight budget this time around. We don't know what this is going to amount to. It could be very little, it could, depending on the circumstances, be substantial. The appropriations committee that it would not be a big deal on the House side, so they took it off.

Chairman Lee: I'm tempted to put it back in. It's so difficult to project what the costs are going to be, what will you do if you don't have the authority to apply for an emergency appropriation and we wind up exceeding what the budget can bear?

Zentner: We'd hope that we could find the money somewhere else, but it may not be there.

And this would all be general funds. It could be a problem. The worst case scenario is that we'd have to make changes to the Medicaid program to cover the loss, which would mean either a reduce in services, reduce in fees or reducing eligibles. That would be the worst case scenario.

Chairman Lee: I can't see anything objectionable about having the language in there.

Sen. Lyson: Without that in there, can't they still apply the emergency commission?

**Zentner:** You can apply to the emergency commission but generally that is only to get spending authority for non-general fund monies. Like a grant. There is sometimes emergency funds available but I don't know if they'd see that as an emergency.

Page 6 Senate Human Services Committee Bill/Resolution Number HB 1465 Hearing Date February 28, 2005

**Sen. Warner:** Are you convinced that we would get information customized enough for North Dakota, since we're skipping the RFP process?

Zentner: I think we'll get a combination of things. The consultant will probably come in and look at our operations, where we're at with the situation; example: what our computers can and can't do and whether the law does require us, if someone insists we have to make the determination on the subsidy issue. That type of thing will probably be customized to North Dakota. The issue of nursing facilities, for example, is a big issue. I think it has implications in all states and probably specifically how North Dakota needs to make sure that process is going to work once January 1, 2006 rolls around, i.e., a hospital has a patient they want to move to a nursing home; that patient has selected a particular drug plan, how do we make sure the nursing home has that so that they can take the individual on. So those kind of procedures are going to have to be worked out.

Page 7 Senate Human Services Committee Bill/Resolution Number HB 1465 Hearing Date February 28, 2005

Vice Chairman Dever: Absent the services of the consultant, how far down are we in preparation for this?

**Zentner:** We're moving, whether we have the consultant or not, we're going to have to be ready by January 1. We're moving as fast as the information is allowing us to. We've already made some early deadlines. The consultant will provide us with another set of hands that will assist us in the process to make sure we can meet all the deadlines.

There was no further testimony. Vice Chairman Dever closed the hearing.

Chairman Lee reopened discussion.

**Chairman Lee:** Were you thinking about the question that I raised to Mr. Zentner about putting in the right to apply for an emergency appropriation?

Sen. Warner: I would feel comfortable with that.

**Sen. Brown:** That was in and the House took it out.

Chairman Lee: But that doesn't mean we can't put it back in again. I'm not going to the wall on this, but it seems to me it would be appropriate to at least have our committee discuss whether or not we think it's important. I don't know how we're going to figure out how we're going to figure out how much this thing is going to cost. It'll help a lot when Mr. Muse comes in.

Sen. Brown: Did the House Appropriations take that out also?

Chairman Lee: Yes, I don't know if it was House Appropriations or Policy.

Chairman Lee asked Carlee McLeod to see which committee amended it to remove the right to apply for an emergency appropriation. She also mentioned that the House did a good job on this.

Page 8
Senate Human Services Committee
Bill/Resolution Number HB 1465
Hearing Date February 28, 2005

Senator Lyson moved DO PASS amendment, seconded by Senator Brown. Amendment reincorporates the right to apply for the emergency appropriation in subsection 3 of section 1.

**VOTE:** 5 YEAS, 0 NAYS, 0 ABSENT

Senator Brown moved DO PASS the amended bill and refer to appropriations, seconded by Senator Dever. VOTE: 5 YEAS, 0 NAYS, 0 ABSENT CARRIER: Senator Brown

Date:	2-28	<u> </u>	02
Roll Call Vo	te #:	·1	

## 2005 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. HB 1465

Senate Human Services					Com	mittee
Check here for Conference Com	mittee					
Legislative Council Amendment Nun						
Action Taken Do Par	o am	end	nont	·		
Motion Made By Such	Lyso	<u>~</u> Se	conded By	Sen	Br	own
Senators	Yes	No	Senators		Yes	No
Sen. Judy Lee - Chairman	V		Sen. John Warner		V	
Sen. Dick Dever - Vice Chairman	V					
Sen. Richard Brown	V					
Sen. Stanley Lyson						,
Bon. Standy Lyson						,
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	<b> </b>					
		·	<u> </u>			
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Total (Yes)	_	. No	4			
10141 (163)	1		· — <del>/</del> —			
Absent	a)		•			
loor Assignment			•			
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f the vote is on an amendment, briefl	y indicat	e inten	t:			

Date:	2-28	105
Roll Call	Vote #:	

## 2005 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. # $\mathcal{B}$ / $\mathcal{C}$

Senate	Human Services				Con	ımıttee
Ch	eck here for Conference Com	mittee	.*			
Legislat	rive Council Amendment Nun	nber _				
Action '	Taken <u>Do Pass a</u> Made By <u>Sen Bo</u>	s am	end	el .		
Motion	Made By Sen Br	ow	Se	conded By	Sen Den	n_
	Senators	Yes	No	Senators	Yes	No
	udy Lee - Chairman	V		Sen. John Warner		1
Sen. D	oick Dever - Vice Chairman	<b>/</b>				
Sen. R	ichard Brown	V	_			
Sen. S	tanley Lyson	v				
1						
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I						1
<b> </b>						
Total Absent	(Yes)		No	φ		
Absem		<del></del>				
Floor As	ssignment <u>In</u>	. Br	own	<u>.</u>		
If the vo	te is on an amendment, briefly	y indicat	e inten	·		
3 /	usefu to approp	p <sup>-</sup>				

REPORT OF STANDING COMMITTEE (410) March 1, 2005 2:30 p.m.

Module No: SR-37-3892 Carrier: Brown

Insert LC: 50764.0301 Title: .0400

#### REPORT OF STANDING COMMITTEE

HB 1465, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1465 was placed on the Sixth order on the calendar.

Page 1, line 13, after the period insert "The department may seek a deficiency appropriation if necessary to cover the cost of payment for prescription drugs provided under this section."

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1465

#### 2005 SENATE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1465**

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
1		b	4,480
	7,000		
Committee Clerk Signatu	ir Jan Duk		

Minutes:

Chairman Holmberg called the hearing on HB 1465 to order.

Representative Clara Price, District 40, Minot, testified on HB 1465 indicating there had been major discussion on Medicaid, evaluating the Medicaid program, the pharmacy program, the notification of ND citizens getting signed up for the program. The time frame for the Medicare modernization act for states was distributed. The HB 1465 is trying to protect the state financially from paying for any drugs that it should not pay for once the plan goes into effect, the other thing is knowing how many people have signed up for the drug discount plans that have been in effect now, we don't want to get to January 1 and have people fall through the cracks which could happen very easily, this will keep a window open until they get enrolled, and of those dual eligible, we should be able to cut cost by 90%. In the blind and disabled category, we can only cover about 50% under the Title I program. If these people are disabled, why aren't they enrolled in Medicare, we need to make sure they are enrolled.

Page 2 Senate Appropriations Committee Bill/Resolution Number 1465 Hearing Date March 10, 2005

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David Zentner, Director, Medical Services, Department of Human Services, distributed written testimony and testified providing information regarding legislation on HB 1465. He indicated this is the plan to implement Part D Medicare Prescription Drug Program, authorizes the Department to use the services of a consultant and described what would be done with the award.

**Senator Fischer** asked questions on Medicare Part D. The response was that there would be a lot of information coming from the Federal government, a group chaired through the Insurance Dept. is trying to get the word out so that everyone can get on board by January 1.

**Senator Kilzer** indicated Medicare should be taking the lead on this and Medicare, Medicaid should synchronize this to be in place. The response was that if the time frame is met it will be in place.

**Chairman Holmberg** closed the hearing on HB 1465.

#### 2005 SENATE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1465**

□ Conference Committee

Hearing Date March 25, 2005

Tape Number	Side A	Side B	Meter #
1	a		-1,260
	**************************************		
Committee Clerk Signatu	re Jan Jo	mes	

Minutes:

Chairman Holmberg opened the discussion on HB 1465 regarding Medicare PART D.

Dave Zentner, Director, Medical Services, Division of Human Services, testified indicating this bill deals with Part D of Medicare pharmacy program which starts January 1. The bill allows contact with an expert in the field to assist in planning for the implementation of this process and sets forth how to pay for services provided to dual eligibles.

Several questions were asked about Medicare Part D and the original fiscal note.

Senator Tallackson moved a Do Pass, Senator Fischer seconded. A roll call vote was taken resulting in 14 yes, 0 no, 1 absent. The motion carried. Senator Brown will carry the bill. Chairman Holmberg closed the discussion on HB 1465.

Date 3/25/05-Roll Call Vote #: /

## 2005 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. SB/465

Senate SENATE APPROPRIAT	IONS			Co:	mmitte
Check here for Conference Con	mmittee	;		_ <del>_</del>	
Legislative Council Amendment Nu	mber		·		
Action Taken			DP		
Motion Made By	<u>5500</u>	S	econded By Fische	F	
Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG			SENATOR KRAUTER	17	<del>  ```</del>
VICE CHAIRMAN BOWMAN			SENATOR LINDAAS		
VICE CHAIRMAN GRINDBERG			SENATOR MATHERN	1	
SENATOR ANDRIST			SENATOR ROBINSON	17	
SENATOR CHRISTMANN	_/_		SEN. TALLACKSON	17-1	
SENATOR FISCHER	. [	: 7		<del>                                     </del>	
	4				- 11
SENATOR KILZER	/				
SENATOR KRINGSTAD					
SENATOR SCHOBINGER	/				
SENATOR THANE	/				
·					
				<del>-  </del> -	
Total (Yes)	<del></del>	λŢ	0		
10.00	_ <del></del>	- <sup>No</sup> _			<del></del> -
Absent			_		
Floor Assignment	M	3	Brown		
If the vote is on an amendment, briefly inc	dicate in	itent:			_

REPORT OF STANDING COMMITTEE (410) March 25, 2005 10:56 a.m.

Module No: SR-55-6200 Carrier: Brown

Insert LC: . Title: .

#### REPORT OF STANDING COMMITTEE

HB 1465, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1465, as amended, was placed on the Fourteenth order on the calendar.

2005 HOUSE APPROPRIATIONS

CONFERENCE COMMMITTEE

HB 1465

#### 2005 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. HB 1465**

House Appropriations Committee Human Resources Division

Conference Committee

Hearing Date: 4-6-05 Wednesday

Tape Number	Side A	Side B	Meter #
I	X		End: 11.4
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	·····	<del></del> ,	·
Committee Clerk Signatu	ire Trane M Onelle		

Minutes: Chairman Delzer called the conference committee on HB 1465 to order at 9:30 a.m.

Representatives Delzer, Price, Metcalf and Senators Brown, J. Lee, J. Warner present. The House and Senate differences and amendments were reviewed briefly. The Senate's .0301 talked about the prescription drugs appropriation.

**Sen. Lee:** We saw it was in there on the House side, but it was taken out in Appropriations. It would be helpful if you could tell us, if they did not apply for an emergency deficiency appropriation, how are they supposed to pay for the cost of the prescription drugs?

Rep. Price confirmed it was taken out in Appropriations.

Chairman Delzer: Emergency deficiency appropriations are granted if a department can prove extenuating circumstances. The reason we took it out goes back to historical--when there were questions on Medicaid funding in the 2001 session. During that interim time, we felt it was used against us. They all came in with a deficiency. In the budget bill the line item curve for Medicaid

funding is a billion dollars and they have the authority to move that around and cover that. It would be easy for them to quantify the numbers and ask for a deficiency then. To put this in there, that takes away the authority of the next Legislative session.

**Sen. Lee:** It says "may," not "shall." We have the same goal. If we did not put it in there without saying they "may," it sounds like to me "You all figure it out how to make it with what you got." We would be recognizing the strong possibility there may be an emergency deficiency, and that it is okay to seek one. It does not say you are going to give it to them.

Chairman Delzer: Everyone has a right to seek the deficiency all the way through.

Rep. Price: Let's address as to what you budgeted versus the 90% claw-back and that we think there is a 10% cushion in there for this type of thing. Because they did not take away that difference. Hopefully there is already enough funds in there. These were put together fast after Mr. Muse was here. I want to make sure we keep good track of what Mr. Muse said with Medicaid D and where we are at. I have some fears that things are going to pop up all along.

Chairman Delzer: There is very little understood of what the accrued effects of Medicaid D will be. There is an inflator for usage and an inflator for cost. They did not take into any account of the amount that should drop off when the due eligibles go to Medicare and they did not figure the claw-back. The claw-back should be 90% of 2003. Hopefully, the costs of 2003 are less than they are now. That is part of why we made one adjustment on the drug part in Medicaid. We still felt there was enough compensation to cover it. If not, we felt they could make the case for a deficiency. I do not know, Rep. Metcalf, did we put any kind of reporting language requirements to the interim? We hope they work it within their budget. But if we want interim reporting

Page 3 Human Resources Division Bill/Resolution Number HB 1465 Hearing Date 4-6-05 Conference

requirements on Human Services and healthcare, that would not be so bad. We could put it at level of participation of Medicaid part D.

**Sen. Lee:** During the interim, whether we put it in statute or not, we are going to be keeping in touch. I do not oppose it if that is something you wish to do. They will be anxious to share with us during the interim.

Rep. Price: Didn't we cover that in 1459?

Sen. Lee: Yes.

Chairman Delzer: Further comments? Allen (LC) or Jim (LC), what are the current practices if a department seeks a deficiency?

Allen/LC explained the process.

Chairman Delzer: Committee members, to me it makes no sense to do it, because they can already seek a deficiency. So we can make a motion or take a break.

Sen. Lee: Could we have two minutes? I do not think we will need to have another meeting.

Chairman Delzer: Yes, we will recess for five minutes.

Chairman Delzer called the meeting back to order.

**Sen. Lee:** If I may, I think we all think the same thing and that they have the right to do the deficiency judgment. It never occurred to us that it would have any kind of reflection on our ability to appropriate, and I still do not think is does. Our concern was that the department would feel they did not have the right to come forward. Anyway, as long as we understand what you understand, we can concur with removing that language. We make a motion that the Senate would recede its amendments on re-engrossed HB 1465.

Page 4 Human Resources Division Bill/Resolution Number HB 1465 Hearing Date 4-6-05 Conference

Sen. Brown: I second it.

**Rep. Price:** Obviously we know we are going to unchartered territories with Medicaid D. If there are problems, we fully expect the department to contact us on things.

**Chairman Delzer:** I think we have the same concern on 1459 and 1012. Further discussion? The clerk will call the roll. Motion passes 6-0. Thank you, conference committee, for your efforts. We will look forward to meeting with most of you on different bills.

Meeting adjourned.

<del> </del>	
REPORT OF CONFERENCE	COMMITTEE
(ACCEDE/RECEDE) - 420	

(1) LC (2) LC (3) DESK (4) COMM.

Your Conference Committee Hou;	se Approp	oriations Human A	esources	
For the Senate:	y N	For the House:		y i N
Sen. Brown	1	Rep. Delze	Pr	
/ Sen. J. Lee	V	Rep. Price		V
/ Sen. J. Warner		- Rep. Metca	IF	
127	465 o	n (SJ/HJ) page(s) _ n the Seventh order dments as follows, a	•	:
on	the Seve	nth order:		
having been unable to and a new committee be			ommittee be di	
((Re)Engrossed) 1465 was p calendar.	laced on	the Seventh order o	f business on t	the
	DATE:	# 1 6 1 05	9:30a.m.	5a Ka ka weq
	CARRIER	: Rep. Delz	en	
•	LC NO.	· · · · · · · · · · · · · · · · · · ·	of amendment	•
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REPORT OF CONFERENCE COMMITTEE (420) April 6, 2005 10:28 a.m.

Module No: SR-63-7432

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#### REPORT OF CONFERENCE COMMITTEE

**HB 1465, as reengrossed:** Your conference committee (Sens. Brown, J. Lee, Warner and Reps. Delzer, Price, Metcalf) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1343 and place HB 1465 on the Seventh order.

Reengrossed HB 1465 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

нв 1465

Rep Parice

## MEDICARE MODERNIZATION ACT TITLES I AND II IMPLEMENTATION TIMELINE FOR STATES

2004	
July	15 States Tasks- States submit the initial MSIS replacement eligibility file for FYQ103
August	<ul> <li>3 Other Tasks- Title I and II NPRM published.</li> <li>15 States Task- States submit the final approved MSIS replacement eligibility file for FYQ103</li> </ul>
September	15 States Task- Submit all remaining MSIS eligibility files for FY03 and FYQ104
October	4 Other Task- Comment period ends
December	7 CMS Task- Data dictionary for long run data
	exchange sent to States  30 CMS Task- Managed care adjustment calculation specifications sent to State workgroup
	2005
January	<ol> <li>Other Task- Regions; Formulary; Financial Solvency; published</li> </ol>
	Other Task- Titles I and II Final Rules Published in FR Other Task- Application Period Begins
February	CMS Task- Awareness Campaign begins (states should be ready to answer questions from the public)
March	CMS Task- CMS ready to accept State test enrollment files SSA Task- SSA begins test run (pilot) mailing to potential Low Income Subsidy eligibles Other Task- Plan Applications Due States Task- States submit First Test Enrollment Files
April	CMS Task- CMS Production file of deemed beneficiaries sent to SSA
May	SSA Task- CMS/SSA identifies initial deemed population identified SSA Task- SSA begins mailings to potential Low Income Subsidy eligibles
June	CMS Task- CMS ready to accept State enrollment production files  6 Other Task- Plan Bids Due  CMS Task- CMS begins mailing deemed their notice of Low Income Subsidy eligibility  States Task- States begin submitting enrollment production files on a monthly basis
July	<ol> <li>States Task- All MSIS eligibility and claims files sent for CY03</li> <li>Other Task- SPAP coordination Requirements Published</li> <li>States Task- States/SSA begin accepting Low Income Subsidy Applications</li> <li>CMS Task- Enrollment Campaign begins</li> </ol>

### Medicare Part D Implementation Contractor - Muse and Associates Scope of Work

Deliverable/Tasks	Due Date
Implementation Plan	July 1, 2005
Identify all implementation risks and suggest actions to	
mitigate	
Review Subsidy Enrollment process	
Establish Tracking process for new applicants	
Develop a flow chart for specific areas (SSI,	
citizenship/residency, disability, new Medicare enrollees)	
Develop a process to review information to ensure all	
individuals who are eligible for Medicare are enrolled in that	
program.	
Coordinate with DHS Tribal Liaison for specific approaches	
for Native American/HIS considerations.	
Analyze the need for technology changes	
MMIS	
POS	
Submitting information to SSI	
Identify Special Considerations/Impact on Populations	
Institutionalized	
340 b Pharmacies	
Ryan White	
Mental Health	
I H S Encounter Rates	
Identify changes needed in State Plan Amendment	
·	
Assist state with identification and assignment of on-going	
tasks	
Review of Monthly File	
Training	
Accessing deductible, coinsurance and copay information	
through PDP electronically (for assistance with Recipient	
Liability calculation)	
Identify resources for Medical Services to access to notify	
pharmacies which PDP to bill.	

Develop Training Plan	July 1, 2005
Identify Training Needs	
Identify Recipients and Staff who need training	
Establish Communication Plan	July 1, 2005
PDP Enrollment	
Information Needed by Medical Services Provider	
Enrollment Staff to answer calls	
Staff Assistance at State Office	
Define Outreach Expectations and Describe minimum	
requirements and content	
Provide Outreach Recommendations	
Coverage Determination and Recipient Rights with Appeals	
Coordinate with Medical Infrastructure Grant (MIG) staff to	
maximize use of outreach money available.	
Use of North Dakota Medicaid ID Card after 1-01-06	
Contacts with other agencies (Long Term Care, Pharmacies,	
Mental Health, etc.)	
Review State Calculation of Phased-Down Contribution	August 1, 2005
Provide Feedback on identification of categories of eligibility	
Assist state in developing estimates of "woodwork" effect	

# TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE REGARDING HOUSE BILL 1465

**JANUARY 31, 2005** 

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

The bill directs the Department to carry out several initiatives as outlined in Section 1 of the bill. Paragraph 1 requires Medicaid to establish a statewide-targeted case management program for all recipients with two or more diagnosis, and requires a pharmacy management component. The Department is also interested in improving the quality outcomes for our recipients that will result in potential cost savings to the program. As such we have included \$200,000 in our operating budget for the next biennium to begin the process. At this time we are exploring how best to approach the need for disease management. We have examined data for the most expensive 500 recipients exclusive of institutional care such as nursing facility services. We have concluded that we must extend the review further to get a better picture as to where we need to concentrate our resources.

The Department reviewed our claims data for the last year and noted that about 68% of all recipients have two or more diagnosis. Over the course of a biennium more than 50,000 individuals would be affected. The costs to case manage this large group of recipients would be very expensive. We would suggest that the language in Paragraph 1 be changed to direct the Department to develop a disease management process that may include the use of targeted case management, which could include a primary pharmacy component.

Paragraph 2 requests the Department to develop a process to limit the number of individuals in out of state nursing facilities. Currently the Department has a reciprocal agreement with the state of Minnesota. If an individual living in Minnesota chooses to live in a North Dakota nursing facility, the state of Minnesota is responsible for that resident for two years. The same applies to individuals in North Dakota who choose a Minnesota nursing facility. The vast majority of out of state nursing facility payments are the result of this agreement. Over the years we have concluded that this arrangement is cost neutral, and reduces the problems for county staff that are required to determine residency for purposes of Medicaid eligibility. The Department could end the agreement; but we do not believe it would result in any savings to the state of North Dakota.

Paragraph 3 requires the Department to review and develop recommendations for the improvement of mental health treatment and services in the state. Many of the individuals who are eligible for Medicaid do have mental illness diagnoses. We have noted that many individuals with chronic diseases also have a mental illness diagnosis. We agree that this will continue to be a need, and have no problem in reviewing our current program to determine where improvements could be made, for individuals on the program who are diagnosed with a mental illness.

Paragraph 4 requests that we review post office addresses to determine what are proper mailing addresses for recipients. While we cannot prevent the use of post office boxes, we try to use the most appropriate address for recipients. In some cases a post office box may be the most appropriate address. For example, residents of nursing facilities or group homes may have the address of the facility, which may be a post office box number.

Paragraph 5 requires that the Department have providers use appropriate diagnostic and procedure codes when submitting claims to the Department for payment. We are cognizant of the importance for providers to submit appropriate

claims data. However, in some instances it is not practical to obtain. For example, we do not expect qualified service providers who are untrained in the diagnosis coding process to enter these codes. Also we do not require nursing facilities and other group homes to submit diagnosis on claims. If needed, diagnosis codes for nursing facility residents can be obtained from the Minimum Data Set that we maintain for each individual residing in a nursing facility. We believe that we do require providers to submit diagnosis and procedure codes when it is necessary to properly adjudicate a claim. We have no problem reviewing our current policies to determine if it would improve our operations to require more providers to enter these codes.

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Paragraph 6 indicates that the Department should implement a prescription drug formulary based on Medicare Part D. The Department will still be unable to enact a drug formulary under current federal Medicaid regulations. However, we do recognize that we need to plan for the implementation of the Medicare drug prescription program that will begin on January 1, 2006. We will be working with the federal government and others to assist our dual eligible recipients to access this new program.

Paragraph 7 requires medical services to seek preauthorization for certain high-cost medical procedures. The Department prior authorizes a variety of services at this time. However, we are also aware of criticism we receive from providers and others when it is perceived that we are interfering with the physician/patient relationship. Our initial review of the number and costs associated with expensive diagnostic scans indicates that the cost of prior authorization may exceed the expected savings. Perhaps additional review may be necessary to determine if prior authorizing these services could realize savings.

Paragraph 8 requires that we develop a system for the use of photo identification cards for Medicaid recipients. We have estimated the cost of converting the cards currently used by recipients, and the ongoing costs for new recipients. The

cost does not include the cost of obtaining the actual photograph. In addition, we would need guidance on how often the card would need to be renewed. For example, when would a newborn need a new card?

Paragraph 9 requires medical assistance providers to use tamper-resistant prescription pads. It is our opinion that if tamper-resistant prescription drug pads are a good idea the process should apply to all prescriptions not just for those prescriptions written for Medicaid recipients. We would suggest a broader application than just the Medicaid program.

I would also like to take this time to acknowledge my staff for the excellent work they do. As you heard this morning the Medicaid program in North Dakota operates in an efficient and effective manner. This is a result of the hard work of the dedicated public servants that work with me. We operate as a team to get the job done for our clients from the workers in the mailroom to the managers of the program. It would be shame to break up this team by outsourcing some of the vital functions that are important to the overall success of this program.

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



### The Two Major Challenges to North Dakota's Medicaid Program in 2005: Cost Control and Implementing Medicare Modernization Act of 2003 (MMA)

January 2005

Testimony of Donald N. Muse, Ph.D.

Muse & Associates 1775 I Street, NW, Suite 320 Washington, DC 20006 202-496-0200 www.muse-associates.com





### Organization of the Presentation

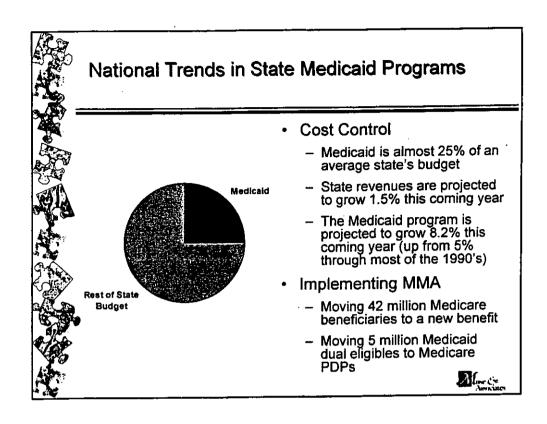
- Overview of Trends in National and North Dakota Medicaid Programs (15 minutes)
- Focus on North Dakota's Medicaid Program (90 minutes)
  - Cost controls suggested by your own State's data
    - · What is driving program costs
    - · Selected options
  - Suggested legislative actions

#### Break (15 minutes)

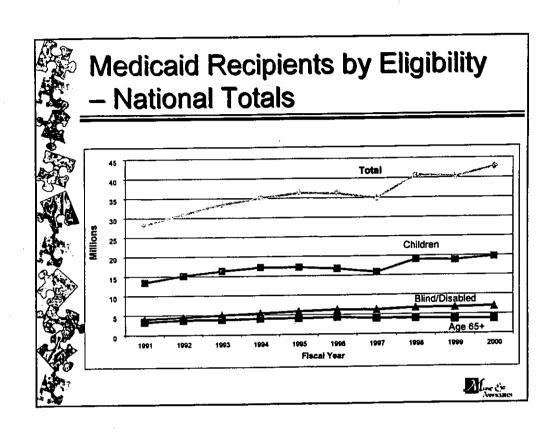
 Overview of Anticipated Challenges in Implementing the Medicare Modernization Act of 2003 (MMA) in North Dakota (60 minutes)

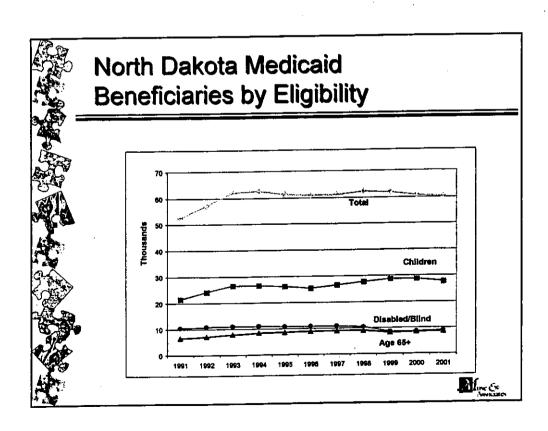


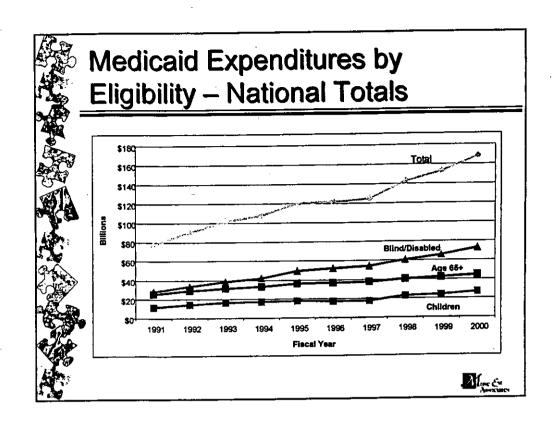
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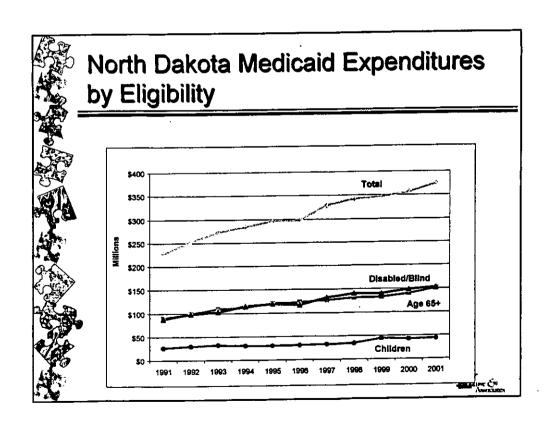










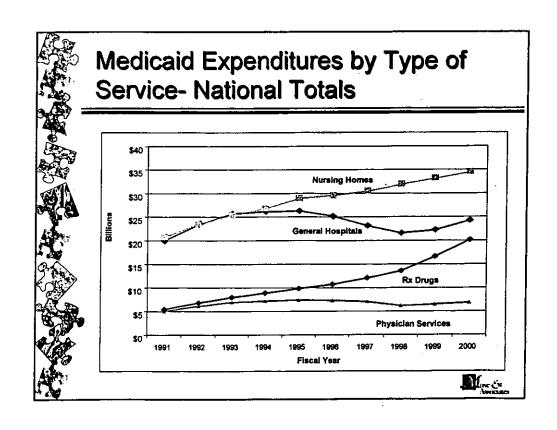


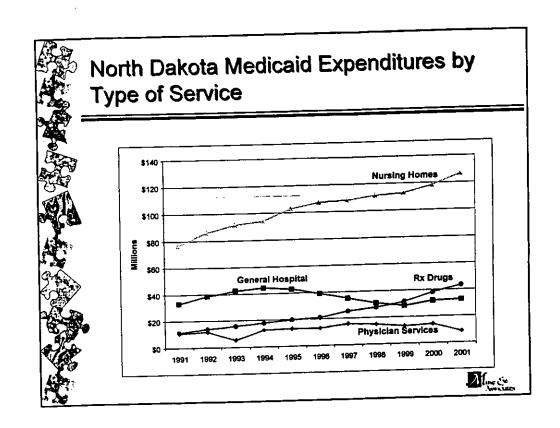


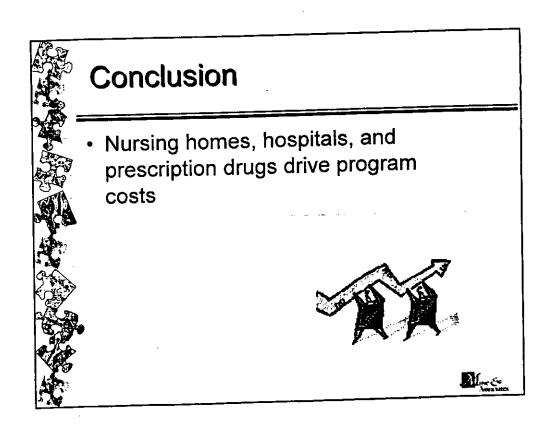
### Conclusion

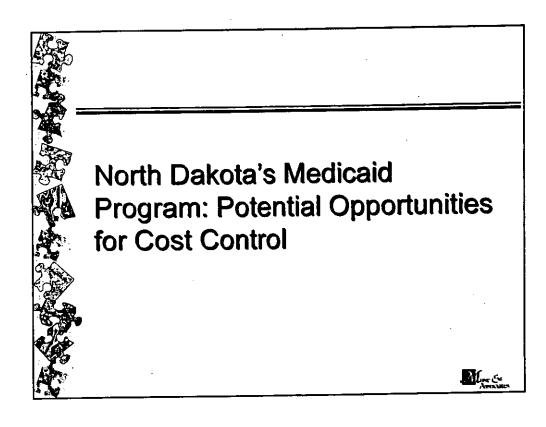
- Disabled and aged are driving program costs in nation and North Dakota
- More than 60% of disabled qualify for disability and Medicaid on mental health grounds
- Medicaid costs cannot be controlled without addressing the mental health population

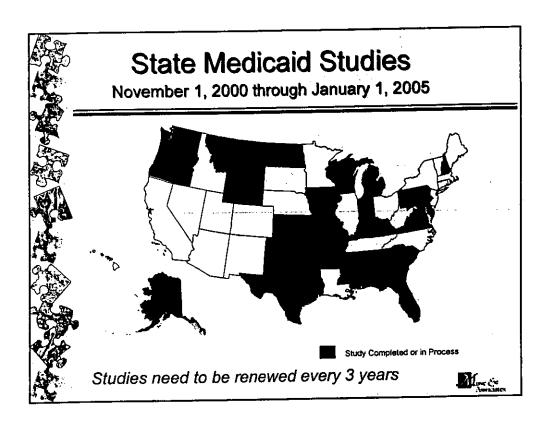














#### What We Do

- · Look at specific costs in each State
  - Receive data tapes from CMS with most current numbers
  - Run scientifically-based edits
  - States receive analysis and suggestions for opportunities for savings options that improve care
  - All data analysis is CONFIDENTIAL (signed agreement)
  - For North Dakota we looked at data from April 1, 2003 to March 31, 2004





### Don Muse's Opinion

We have analyzed Medicaid programs and costs in 26 States

Compared to almost all of the States we have worked with, North Dakota has a well-run program





# Areas of Expenditures that we Examine Carefully for Opportunities for Cost Savings

- Chronic Diseases
- Prescription Drugs
- Mental Health
- Long Term Care Facilities
- Fraud and Abuse
- Other





Potential Savings from Targeted Disease and Case Management of Chronic and High Cost Patients



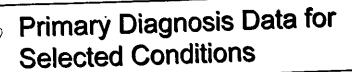


# Examples of Potential Opportunities

### Targeted Disease and Case Management

- High cost chronic disease recipients
- High cost chronic disease recipients with mental diagnosis
- Highest cost recipients
- Neonates
- Lots of others, e.g., HIV, etc.





#### North Dakota Data

	Patient Count	% Patient	Medicaid Paid	% Medicaid Paid	Average Paid
		5.5%	\$28,789,625	6.3%	\$6,734
Asthma	4,275 3.829	4.9%	\$57,354,486	12.6%	\$14,979
Diabetes	2,051	2.6%	050	9.7%	\$21,444
CHF/Heart Failure		11.3%			\$11,742
Total 3 Diseases	8,863				\$59,576
Top 10 percent	886	1.1%	\$52,784,431	11.076	400,010
Total State	78,181		\$455,278,554		

\*Unduplicated





# Targeting Chronic and Mental Illness Patients

Relative Costs of Medicald Recipients with Mental Illness and Selected Chronic Illnesses:

Total Annual Expenditures Per Person in North Dakota

Asthma Diabetes Heart	No Mental Illness <u>Diagnosis</u> \$4,653 \$11,275	Mental Iliness <u>Diagnosis</u> \$13,429 \$24,667 \$32,162	Percent <u>Difference</u> 289% 219% 189%
	\$11,275 \$17,023	, ,	_





# Targeting the Top 200 Medicaid Recipients

- The average Top 200 recipient cost more than 25 times the average recipient
- Cost \$28.7 million and averaged \$143,400 per recipient (other states reached \$344,843 per recipient)





# Potential Savings from Neonate Case Management

- 533 (?) Neonates
- 67 hospitalized in first year
- 19 had two or more hospitalizations
- Some hospitalizations can be prevented
- Coding of diagnoses is a problem





# Recommendation #1: Targeted Case Management

- Targeted Case Management for Recipients With (1)
  High Costs, (2) High Utilization, and/or (3) Potentially
  inappropriate Utilization
  - Disease management programs targeted toward high cost individuals or clinically targeted individuals have great potential for cost savings <u>and</u> improving health of Medicaid beneficiaries
  - We have consistently identified approximately 3,500 recipients with high costs, high utilization, or potentially inappropriate utilization. These recipients represent a large percentage of North Dakota's Medicaid expenditures. We feel strongly that a targeted case management program, run within the Department, would have significant potential for reducing expenditures and increasing the health of these individuals. The legislation should suggest that the program be statewide to avoid the necessity for federal waivers.



### Improve Reporting of Diagnostic Codes on Claims:

Total Expenditures by 3 Digit Primary Diagnosis for All Datasets by Amount Paid\*

Diag Code	Description	Patients	Paid	Paid Per Patient
NOS	Not Otherwise Specified	55,697	\$209,355,574	\$3,759
999	COMPLICATIONS OF MEDICAL CARE	2,368	\$51,767,656	\$21,861
99	OTHER VENEREAL DISEASES	2,709	\$7,384,799	\$2,718
V30	SINGLE LIVEBORN	2,815	\$8,783,107	\$2,410
296	AFFECTIVE PSYCHOSES	2,507	\$6,000,427	\$2,393
888	888	4,728	\$5,145,818	\$1,088
780	GENERAL SYMPTOMS	8,523	\$3,986,099	\$486
786	SYMPTOMS INVOLVING RESPIRATORY SYSTEM AND OTHER CHEST SYMPTOMS	8,940	\$3,956,197	\$44
314	HYPERKINETIC SYNDROME OF CHILDHOOD	2,245	\$3,794,178	\$1,69
518	OTHER DISEASES OF LUNG	1,122	\$3,077,306	\$2,74

\*Excludes data on prescription drugs





### Recommendation #2: Require Diagnostic Codes on Certain Claims

Medicaid claims with missing or inadequate diagnostic codes. Absence of these codes hinders understanding what Medicaid monies are being spent on and how to improve services. The Department has increased scrutiny of claims with regards to diagnosis. You might wish to consider a legislative mandate





### American Indian Population

- When examining the data, we split out the American Indian population and looked at the various potential problem areas
  - Generally, higher acute care costs per person
  - Generally, lower primary care costs per person





# North Dakota Medicaid Prescription Drug Expenditures





### **Prescription Drug Expenditures**

(Fee for Service in millions of dollars)

Group	<b>Dollars</b>		<u>Percent</u>	
Aged	\$	20.6	34.7%	
Blind/Disabled	\$	25.2	42.4%*	
Children	\$	6.8	11.4%	
Other Adults	\$	6.4	10.8%	
Unknown	<u>\$</u> _	0.09	<u>0.2%</u>	
Total	\$	59.4	100.0%	

\*Other states ranged from 42.4% to 62.4%. Lowest to date





### **Prescription Drug Expenditures**

American Hospital Formulary Service (AHFS) Classes & Amount Paid

AHFS Description	Patients	Paid	Percent of Total Paid	Average per Patient
ALL DRUGS	49,440	\$63,672,311	100.0%	\$1,288
CENTRAL NERVOUS SYSTEM DRUGS	28,334	\$29,269,621	46.0%	\$1,033
HORMONES AND SYNTHETIC SUBSTITUTES	15,995	\$5,554,604	8.7%	\$347
CARDIOVASCULAR DRUGS	10,733	\$5,220,041	8.2%	\$486
ANTI-INFECTIVE AGENTS	33,325	\$4,248,694	6.7%	\$127
GASTROINTESTINAL DRUGS	8,368	\$3,905,350	6.1%	\$467
AUTONOMIC DRUGS	12,495	\$2,756,897	4.3%	\$221
UNCLASSIFIED THERAPEUTIC AGENTS	3,961	\$2,582,597	4.1%	\$652
BLOOD FORMATION AND COAGULATION	3,476	\$1,751,509	2.8%	\$504

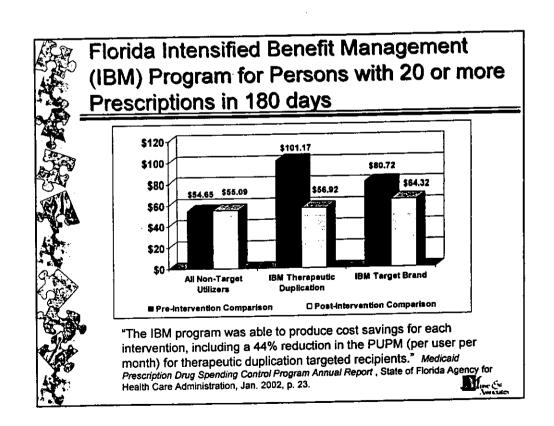
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# Expenditures for Persons with 20 or More Prescriptions in 180 Days

- 1,414 total persons with \$40.7 million in total expenditures
  - \$9.6 million in prescription drug expenditures
- 752 non-institutionalized persons used \$21.1 million or 4.6% of total North Dakota Medicaid expenditures
  - These patients represent 1.0% of total
     Medicaid recipients (other states range from 0.3% to 5.2%)







### Addition to Recommendation #1

 Include high prescription utilizers in targeted case management program







# Potential Over / Under Utilization of Mental Health Medication





### Potential Ineffective Dosage

 There were 1,691 (10.0% of those receiving mental health medication) patients that were prescribed an atypical at an ineffective strength. This represents 42.3% of patients who received an atypical medication. Industry experts indicate that this wastes money and is not helpful to treating recipients.





#### **Potential Overlapping Medication**

 There were 1,775 patients on 3 or more overlapping behavioral medications. This represents approximately 10.5% of recipients who received a prescription drug with a mental health indication.

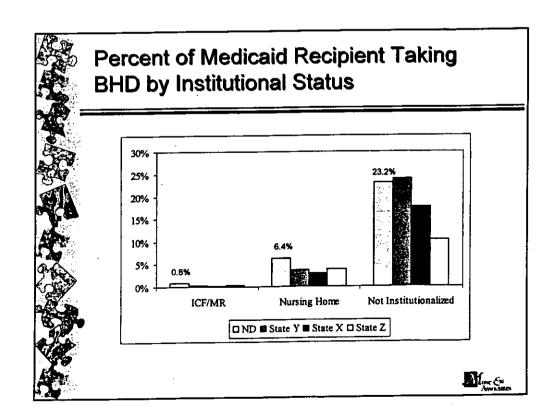


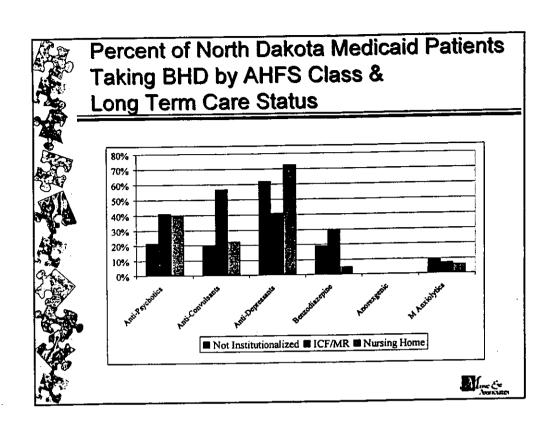


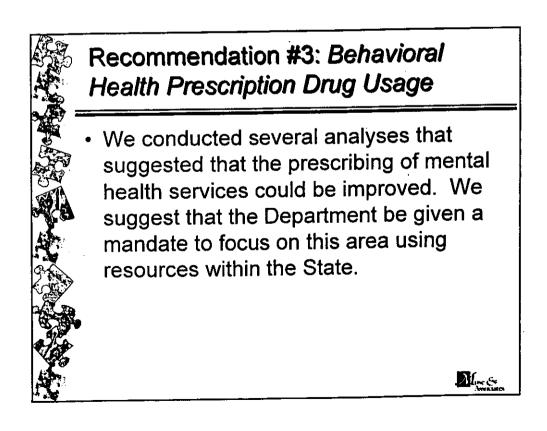
# Potential Overlapping Medication (cont'd)

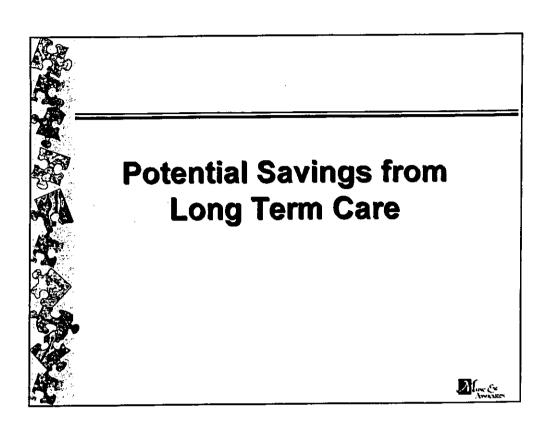
- 102 patients (0.6% of those receiving mental health medication) were concurrently on more than one SSRI during the year. Patients should not generally be on more than one SSRI at a time
- About 5.8% or 232 patients of patients taking atypicals received two or more of this type of drug at the same time during the year. Patients should not generally be on more than one atypical at the same time

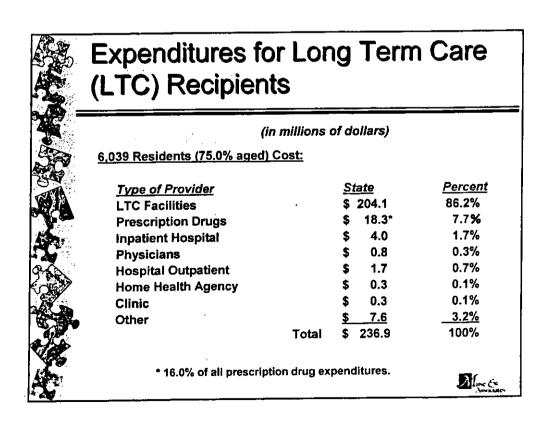














# Indicators of Nursing Homes with Potential Problems

- Indicators developed in technical consultation with:
  - American Medical Directors Association
  - American Health Care Association
  - Long Term Care Pharmacy Alliances





### Indicators of Nursing Homes with Potential Problems

- High percentage of residents taking 20 or more prescriptions at the same time
- High percentage of residents taking one or more of 19 modified Beer's list medications (always, rarely)\*

\*Zhan, C, et al., JAMA 286, Dec. 12, 2001, p. 2823-9.





### Indicators of Nursing Homes with Potential Problems in North Dakota

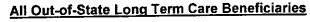
- 147 total homes of which 38 had 50 or more Medicaid patients:
- For the homes with 50 or more Medicaid patients:
  - 12 homes had more than 5 percent of residents taking 20 or more drugs at the same time
  - 2 homes had more than 25 percent of residents taking Beer's list medications (always, rarely)
- Facilities with 50 or fewer residents had similar problems





#### Out-of-State Long Term Care Beneficiaries

Only Beneficiaries with a Zipcode outside 58xxx



# of Beneficiaries	Medicaid Paid
85	\$2,444,457

Only Out-of-State Beneficiaries with 20 or more drugs in 180 days

# of Beneficiaries	Medicaid Paid
13	\$515,271





#### Recommendation #4: Reduce Out-of-State Nursing Home Expenditures

• A significant number of nursing home residents are being cared for in other states. The costs of these out-of-state facilities are higher than in-state facilities partly due to the out-of-state placement of medically complex cases. We recommend that the Department be directed to develop options for reducing this outplacement in the short and long term with input from interested parties. We are not familiar with North Dakota's legislative customs in this area. However, in some states, the Department would be directed to implement some of the recommendations while in other states, that would be reserved to the legislature.

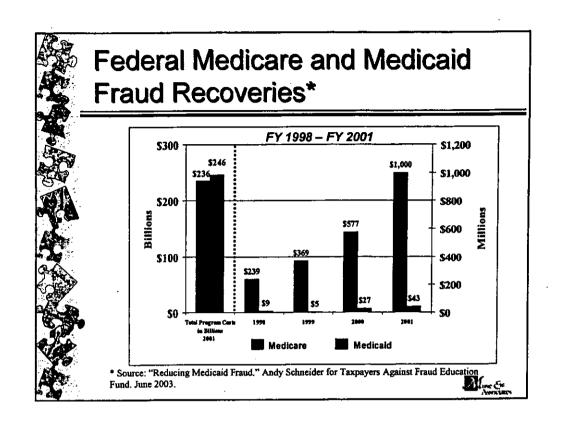


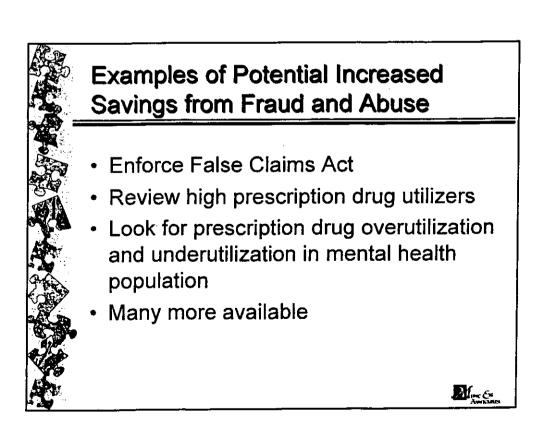


# Potential Savings from Fraud and Abuse Activities:

Does Medicaid need more Fraud and Abuse Activities?









# Recommendation #5: Further Investigation of Fraud and Abuse Needed

- The paid claims system does not generally contain Fraud and Abuse information. We recommend that the legislature should
  - 1. Investigate or hold hearings on current Fraud and Abuse activities and / or
  - Get an independent consultant to prepare a report





#### Potential Savings from Prior Authorizing Expensive Outpatient Medical Tests

- Prior authorizing prescription drugs, only a handful have begun prior authorizing expensive outpatient medical tests
- One State has realized 15% savings from requiring prior authorization for Magnetic Resource Imaging (MRI), Computerized Axial Tomography (CAT), and Position Emission Tomography (PET) scans alone
- North Dakota had \$1.1 million in CAT, MRI and PET Expenditures
- 15% savings on just these procedures would equal approximately \$166,000





#### Recommendation #6: Authorize the Department to Prior Authorize High Cost Medical Procedures

 Several states have found that prior authorizing expensive medical tests, such as MRIs, Pet Scans, etc., reduces expenditures and unnecessary utilization.

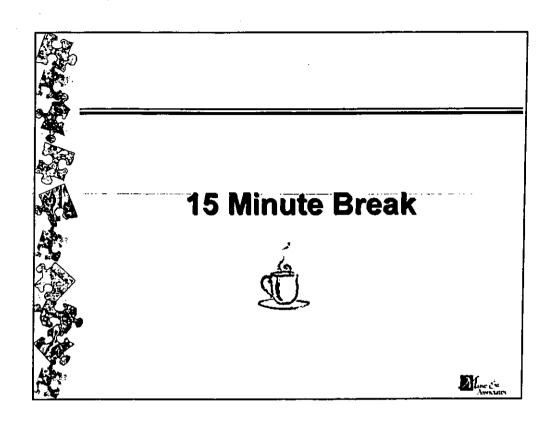


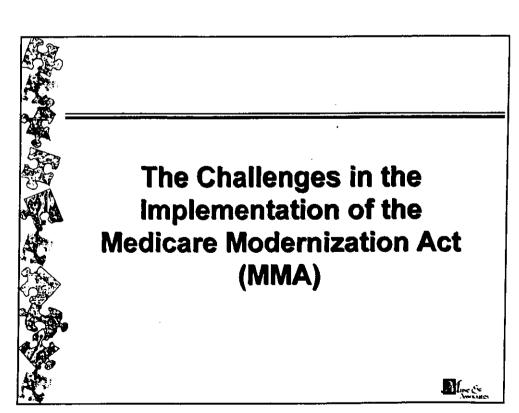


Recommendation #7: Focused Eligibility Review of Persons Using a Post Office as Their Address

 This is a recommendation that several reviewers raised during our last presentation. They felt that, given their knowledge of the zip codes used within the Medicaid program, there is little reason for persons to use the post office as their address.









#### Medicare Prescription Drug Program Begins January 1, 2006

- Drug Benefit
  - \$35 premium per month / \$250 deductible
  - 25% co-pay from \$250 \$2250
  - No coverage from \$2250 to \$5100
  - 5% co-pay above \$5100
- Dual Eligibles under 100% poverty level
  - Full premium subsidy
  - Full deductible subsidy
  - Minimum co-pays





### Who are the Dual Eligibles?

- As of January 1, 2006, dual eligibles will need to receive their prescription drug coverage under Medicare Part D
  - States will no longer receive matching funds for Rx for these patients
  - States will have to pick up the slack if they agree to provide more coverage than is allowed under the Part D plans out of "State Only" funds
- It is essential that States have clear records of who are dual eligibles on their Medicaid rolls in 2003.

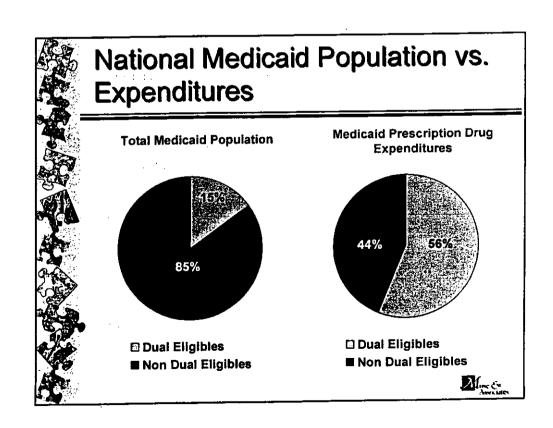




### States' Administrative Responsibilities under the Act

- It will be the State Medicaid agencies and Social Security offices which will process applications for low-income subsidy program under Medicare Part D
  - New staff, new computer programming to process applications might be needed
  - New eligibles?







#### Givens

- MMA drug program means change for beneficiaries
  - PDPs are a new animal in the market place
  - Dual eligibles will no longer get drug coverage automatically from Medicaid
- Transitions can be difficult and challenging, particularly for vulnerable populations
- MedPAC has documented that transitions of this type in the general population require months of preparation, and months to resolve problems





### States and Implementation of MMA

- Just now beginning to understand the complexity of implementing MMA
- Implementation can be reduced to two major questions
  - Who needs to do what?
  - What are the major problems that need to be addressed?





# WHO NEEDS TO DO WHAT? (National Level)

- Federal Role
  - Education
  - Enrollment and
  - --Maintenance
  - Identification of Plans
  - Formulary Oversight
  - Data Collection
  - Auditing/Monitoring
  - Claims Processing

- State's Role
  - ID Dual Eligibles (Deceptively Simple Looking Task)





### WHO NEEDS TO DO WHAT?

(State Level) - The "Does What"



- Change State laws where necessary
- Educate affected program admin staff
- Educate program participants
- Educate providers
- Coordinate with Federal agencies
- · Coordinate with PDPs
- Replace State money with Federal money wherever possible





#### WHO NEEDS TO DO WHAT?

(State Level - "Does What" cont.)

- Coordinate with insurance industry
- Modify and test required systems changes:
  - Within State programs
  - Across State programs
  - With Federal programs
  - Between the State and providers
  - Between the State and other insurers
- Assist providers (optional)
- Develop anti-fraud campaign to prevent Medicare discount card replay





### THE WHO (State Level) Major State Offices and Partners Involved in MMA Implementation

- State Legislature
- · Office of the Governor
- · Secretary of Health
  - Public Health Programs
  - Medicaid Program
  - State Pharmaceutical Assistance Programs
  - Correctional Facility Programs
  - Programs for the Aged
- · Secretary of Mental Health
- · Office of Personnel Management
  - State Employee Health Program
  - Quasi-State Employee Health Programs
- · Insurance Commissioner/Secretary
- · Attorney General
- · State Information Technology Coordinator (if any)





#### Recommendation #8

Require the Department to Submit a
 Planning Report on Implementation of
 the New Medicare Prescription Drug
 Benefit on <u>at least</u> the dual eligible
 population





### The Challenges

- Will enrollment work for the dual eligibles and others?
- Keep from paying the Federal government too much money
- Getting the dozens of computer systems ready
- Will the special problem of the institutionalized beneficiaries be dealt with effectively?
- What existing pharmaceutical cost and utilization programs should be continued or changed?



#### Disclaimer

- The challenges and recommendations are solely the opinion of Don Muse
- There are dozens of important things that need to be done in preparation for January 1, 2006
- I have selected what I believe are the most critical things that need to be addressed





### Challenge #1: Will Enrollment Work for Dual Eligibles and Others?

- If Medicare beneficiaries participating in State programs are not enrolled in Part D, MAJOR problems for the beneficiary and the State
- If Medicare beneficiaries NOT participating in State programs are not enrolled in Part D, MAJOR problems for the beneficiary and ultimately for the State
- Due to tight timeframes, automatic enrollment will be activated before choice can occur\*
  - Those with greatest need for assistance have shortest time to choose a plan and enroll
  - Short period to provide all beneficiaries with information on plans before enrollment

    – 30 days (Oct. 15 – Nov. 15)
  - Short period to enroll dual eligible beneficiaries 6 million in 6 weeks (Nov. 15 – Jan. 1)





#### Challenge #1 (continued)

- Process is for random placement among drug plans in region that have a monthly premium at or below the subsidy amount available
- Some dual eligibles will not be automatically enrolled due to data and system problems
- Dual eligibles who are automatically enrolled may be confused and not understand the overall program or specific drug plan information
- Anticipated that some regions will have only one such plan
- It is likely, even if auto enrollment goes smoothly, that some dual eligibles will have access problems in the transition period
- Severity of problems will vary from inconvenience to life threatening





#### **Utilization Management Standards**

- Maintains methods ensuring costeffective utilization management; tools to include but not limited to the following
  - Step therapy
  - Prior authorization
  - Tiered cost sharing

Actual CMS Training Slide





### Formulary Information

- Formulary details on website/written materials must include:
  - List of formulary drugs
  - How the formulary works (including cost sharing tiers and utilization management rules)
  - How to obtain an exception
  - How to obtain additional formulary information
  - Marketing/formulary materials submitted June 7 may begin use on October 1

Actual CMS Training Slide





### **New Medicare Drug Benefit**

- Involuntary disensellment
  - A PDP may disenroll an individual for "disruptive behavior"
  - Where do they go?
  - Who pays for them?





Recommendation #9: Develop Short Term Measures to Ensure that Crucial Medications are Available to Dual Eligibles and Beneficiaries in Institutions

- North Dakota, with or without an emergency regulation from CMS, could put a mechanism in place for providing serious and lifesustaining medication
  - North Dakota could work directly with pharmacies to provide for short term relief
  - North Dakota could also establish an 800 number
  - An emergency regulation by the Federal government could make the costs matched through Medicaid





# Recommendation #10: Get People Enrolled!

- Educational materials are not as powerful as personal outreach
- Grass roots organizations need to be involved







#### Recommendation #11: Get People Enrolled in the Right PDP

- Provide easy-to-understand information that rates PDPs from
  - The general patient viewpoint, such as
    - · Breadth of formulary
    - Patient appeal process
    - · New drug policies
- Provide easy-to-understand information that rates PDPs from the viewpoint of specific serious and chronic diseases such as those represented in this room





# Challenge #2 – Keep From Paying the Federal Government Too Much Money

- The heart of the "clawback" calculation is a per capita times person months of coverage
- The 2003 data States submitted contains a number of problems that must be corrected.
   The data tends to overstate the dual eligible per capita.
- The dates contained in the eligibility file overstate the person months of eligibility
- Rebates from associated programs, such as 340B, may be overstated or understated





# Recommendation #12: Expect to Work on Clawback Issues

- Making corrections now could save significant dollars for years to come
- · Get an expert in this area to help you







### Challenge #3 – Getting the Dozens of Computer Systems Ready

- In one State we have identified thirtyone computer systems that will need to be modified (and we are not through)
- Internal computer staffs are "thin"
- When the State contracts out, time for lengthy modifications and new monies will have to be allocated





# Challenge #4: Will the Special Problems of the Institutionalized Beneficiaries be Dealt with Effectively?

- 6,309 North Dakota Medicare and Medicaid beneficiaries are in institutions at any specific time
- Many of these individuals have limited capacity to make decisions; most require assistance for enrollment and other decisions
- The system for obtaining drugs through the facility will completely change
- The national plan for targeting education and counseling to this group, or their families, is unclear





#### Recommendation #8

 Require the Department to deal with Challenges # 3 and 4 in the planning report on implementation of the new Medicare prescription drug benefit



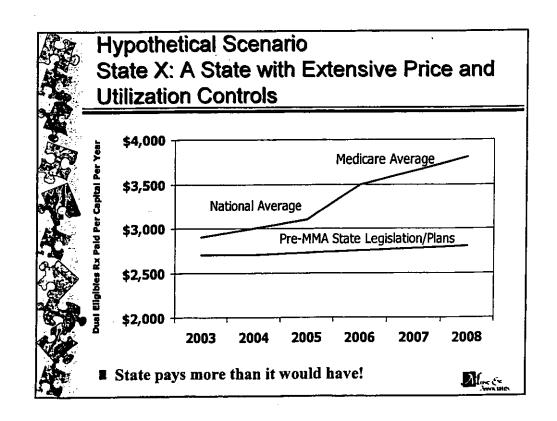


Challenge #5 – What existing pharmaceutical cost and utilization programs should be continued or changed?

- What drives the increases in Medicaid prescription drugs changes after 1/1/06
  - Role of Price decreases
  - Role of Utilization increases



Mine Co





### **Opportunities Under MMA**





#### **Avenues for Cost Reduction**

- Orient disease management to the residual Medicaid prescription drug recipients
- Develop financial approaches to disease management for the dual elderly population that show disease/case management still works for that population
- Drugs are <u>FREE</u> to the Medicaid program for dual eligibles after 1/1/06!





### **Lots of Opportunities**

- Encourage increased use of preventative and early treatment prescription drugs in the dual eligible population
- 2. Carefully reexamine the disease management programs in light of the new Medicare prescription drug benefit Does what you are doing make sense?
- 3. Maximize savings from "clawback" provisions through details of clawback calculation process
- Separate one hour presentation available for opportunities which are <u>numerous!</u>





### The Biggest Opportunity

 Focus on and adjust to the management problems presented by those persons who are not dual eligibles by reviewing all programs and demonstrations now!





### Appendix A

# Other Areas for Potential Savings





# Promote Generic Substitution to Reduce Cost

- The General Accounting Office (GAO) and others have long noted that Medicaid programs have not maximized generic substitution through MAC and other programs
- 2003 article in <u>Health Services Research</u> estimated that North Dakota could further reduce prescription drug expenditures by 8.6% (\$600,000 in 2000) for generic substitution and 18.2% (\$1,300,000 in 2000) for best MAC limits. (Article available upon request.)\*

\*Don Muse's Personal Opinion = more like 2% and 5%





# Low Cost Suggestions Developed by the States

- Tens of millions of 100% of Federal dollars are available weekly in the Commerce Business Daily
- Reviewing and bidding on these grants and demonstrations is usually decentralized and on a non-systemic basis
- One State hired a <u>professional grant writer</u>, placed her in the Lt. Governor's office, and she "paid for herself a hundred times over in the first year."





#### **Other Low Cost Suggestions**

- Help people get Federal money
  - Require that all Medicaid recipients be required and assisted to look at Federal assistance programs on the Federal website (www.benefits.gov) – four States already doing so
- Help poor people get free medicine
  - Require that all Medicaid recipients with certain medications are checked for eligibility to free medications from the over one hundred free programs offered by pharmaceutical drug manufacturers (www.helpingpatients.org) – seven States already doing so
- Help all people get free medicine
  - Make <u>all citizens</u> of your State aware of the free programs available from the pharmaceutical manufacturers
- Help all people find lowest prices for necessary prescriptions
  - Develop website that helps citizens compare varying prices at local pharmacies. Good example of that is Maryland's website: www.oag.state.md.us

Attachment 1

#### TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE

#### **REGARDING HOUSE BILL 1465**

#### **FEBRUARY 28, 2005**

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

This bill directs the Department to develop a plan to implement the provisions of the Part D Medicare Prescription Drug program. As of January 1, 2006, all dual eligible Medicaid recipients will have their prescription drugs paid by the Medicare program. States will be required to pay a 90% clawback to the federal government based on the 2003 drug cost for this group inflated forward to the 2006 calendar year. Currently, the Medicaid Program pays drug coverage for these individuals.

The bill also authorizes the Department to use the services of a consultant to assist in the development of the plan and permits us to bypass the normal state procurement process for contract services. It also provides guidance regarding payment of drugs for dual eligible recipients after Part D is implemented.

It also requires the Department to report on the progress of implementing Medicare Part D.

The bill provides for a \$100,000 appropriation of which \$50,000 is general funds to be used in the current biennium to contract for a consultant to assist in the implementation of this new program.

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

#### **Proposed Amendments to HB 1465**

Page 2, line 6, after the period, insert "The department may seek a deficiency appropriation if necessary to cover the costs of payment for drugs provided under this section."

Renumber accordingly