

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2410

2005 SENATE HUMAN SERVICES

SB 2410


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2410

Senate Human Services

☐ Conference Committee

Hearing Date January 31, 2005

Tape Number	Side A	Side B	Meter #
2	x		4111-5845
Committee Clerk Signature 			

Chairman Lee opens hearing on SB 2410

Relating to medical assistance and children's health insurance program eligibility determinations.

(meter #4111 tape 2 side A)

Curtis Volesky - Medical Services division of the Department of Human Services.

See written testimony. In favor of this bill.

Senator Lee - Asked if there was a longer lag time for an applicant for SCHIPS in implementation.

Volesky - Replied, there shouldn't be a delay.

(meter #4750)

Page 2

Senate Human Services

Bill/Resolution Number **SB 2410**

Hearing Date January 21, 2005

Shari Doe - Social Service Director for Burleigh County - In support of this bill.

See written testimony.

Senator Lee - It was not her impression that SCHIPS applications would be processed by the county.

Doe - Said it was something discussed to allow the capacity for both.

Senator Lee- Said she was not sure she wants the county to be making determinations on SCHIPS.

Doe - Stated that is something the county directors have talked about and that is what her testimony is based upon.

Senator Lee - Asked Mr.Volesky about opening the door to county eligibility determination for SCHIPS. Asked if the state would ever see that application.

Volesky - Said that right now all Medicaid determinations have to be made at the county. So if someone sends up a joint application at the state level they would have to forward that off to the county. Likewise individuals that apply at the county level and some children may be healthy steps, some children may be Medicaid or food stamps. This would allow the flexibility to have that application processed at either place.

(meter #5356)

Senator Lee - Spoke only for herself and not the committee but she does not want eligibility gradually moved over to the county so that the state does not have the administration of that.

Volesky - Said the state would still have a finger on it.

(meter #5760)

Closed hearing on 2410.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2410

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 7, 2005

Tape Number	Side A	Side B	Meter #
3		X	301-414
Committee Clerk Signature <i>Colly Minard</i> SH			

Minutes:

Chairman Lee opened the meeting to discuss SB 2410. All Senators were present.

Senator Lyson moved a Do Pass recommendation for the bill. Seconded by Senator Brown.

The bill passed unanimously, 5-0-0. Senator Brown is the carrier of the bill.

Chairman Lee closed the meeting on SB 2410.

FISCAL NOTE
Requested by Legislative Council
01/25/2005

Bill/Resolution No.: SB 2410

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

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

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

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

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

This bill would create and enact a new subsection to section 50-06-05.1 of the NDCC relating to medical assistance and children's health insurance program eligibility determinations when the department receives a joint application for these benefits.

This bill causes no fiscal impact to the department.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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

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

Name:	Debra A. McDermott	Agency:	Human Services
Phone Number:	328-3695	Date Prepared:	01/28/2005

Date: 2-7-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2410

Senate	Human Services	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Mr. Lyson Seconded By Brown

[illegible]

Total (Yes) 5 No 0

Absent _____

Floor Assignment Sen Brown

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

REPORT OF STANDING COMMITTEE (410)
February 7, 2005 4:40 p.m.

Module No: SR-24-2047
Carrier: Brown
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2410: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2410 was placed on the
Eleventh order on the calendar.

2005 HOUSE HUMAN SERVICES

SB 2410

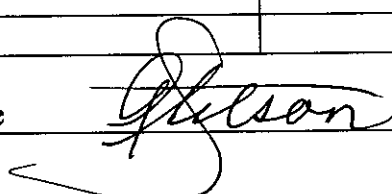
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2410

House Human Services Committee

☐ Conference Committee

Hearing Date 3/1/05

Tape Number	Side A	Side B	Meter #
1	x		2910-3823
Committee Clerk Signature 			

Minutes:

Chairman Price: Open the hearing on SB 2410.

Curt Valesky, Medical Services Division of the Dept. Of Human Services: (3013)

(See Attached Testimony)

Representative Porter: (3268) The vision system and the project completion by June of 2005, I guess I look at it and think, do you want to wait two months for this to go into place, or should this bill have an emergency clause on it, so that when you are ready to go in June the system is up and running and working?

Curt Valesky: That probably wouldn't be a bad idea. The system will be ready to go in June.

In fact for the eligibility determinations actually that are made July 1st.

Representative Welsz: Is there going to be any issue of duplication of application?

Curt Valesky: When an application is received, it is registered in the system, so it can't be registered at two different places. If someone actually applied at two different places it would pick it up at that point.

Chairman Price: Any one else testifying in favor?

Kathy Hogan, Social Services Director for Cass County: (3436) I am here in support of SB 2410. (See Attached Testimony)

Chairman Price: (3783) Anyone else testifying in favor? No one. Is there any opposition? No one. Close the hearing on SB 2410

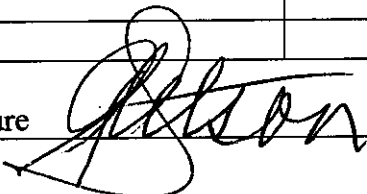
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2410

House Human Services Committee

☐ Conference Committee

Hearing Date March 1, 2005

Tape Number	Side A	Side B	Meter #
1			
Committee Clerk Signature 			

Minutes:

Chairman Price opened discussion on SB 2410.

Rep. Nelson: Motion to add the emergency clause.

Rep. Weisz: Second

Chairman Price: All those in favor of adding the emergency clause, say Aye, opposed?

Voice vote: Unanimous

Chairman Price: Any discussion? Hearing none, we have an amended bill in front of us, what are your wishes?

Rep. Nelson: I move a Do Pass.

Rep. Uglem: Second

Vote: 9-0-3 (Damschen, Kaldor, Sandvig)

Carrier: Rep. Pietsch

Date: 3/1/05

Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL
BILL/RESOLUTION NO. SB 2410

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass As Amd

Motion Made By

Rep. Nelson

Seconded By

Rep. Uglen

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

Total Yes

9

No

0

Absent

3

Floor Assignment

Rep. Pietsch

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

REPORT OF STANDING COMMITTEE

SB 2410: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2410 was placed on the Sixth order on the calendar.

Page 1, line 3, after "determinations" insert "; and to declare an emergency"

Page 1, after line 9, insert:

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

Renumber accordingly

2005 TESTIMONY

SB 2410

TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE

REGARDING SENATE BILL 2410

JANUARY 31, 2005

*Same
Sent
to House*

Chairman Lee, members of the committee, I am Curtis Volesky, with the Medical Services Division of the Department of Human Services. I appear before you today to provide information and support this bill.

State law currently provides that Healthy Steps eligibility may be determined by the Department of Human Services or by county social service agencies. It does not allow that flexibility for the Medicaid program. It states that eligibility for the Medicaid program must be determined by county social service agencies. The passage of SB 2410 would allow more flexibility in which agency processes Medicaid applications. If passed, eligibility workers located at the central office in Bismarck would be able to determine and authorize both Medicaid and Healthy Steps eligibility when the Department receives a joint application. Currently, central office eligibility workers only determine and authorize eligibility for the Healthy Steps program, and refer all Medicaid determinations to the county.

Today, central office eligibility workers do not need authority to authorize Medicaid eligibility because Medicaid and Healthy Steps eligibility is maintained on two different systems. However, the Department is in the process of updating the Vision system so it will determine eligibility for both programs. We anticipate this project will be completed in June 2005.

When the project is completed, an eligibility worker will be required to input pertinent data from the joint application into the system, and the system will determine if family members are eligible for either Medicaid or Healthy Steps. If central office eligibility workers are not allowed to authorize Medicaid, applications will have to be forwarded to a county social service office before

action can be taken on either program. This process would be both confusing and frustrating to the applicants and workers, and would completely negate the need for any Healthy Steps eligibility determinations at the central office.

It makes sense that if the central office eligibility worker receives a joint application and inputs the data into the system, the central office eligibility worker should be able to act on that determination without having to send it to the county social service office. This will result in more timely eligibility determinations, as there will be no delay caused by transferring the application.

The Department supports this bill and recommends that you consider a do pass for this proposed legislation.

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

Testimony before the Senate Human Services Committee

SB 2410

January 31, 2005

Chairman Lee, members of the committee, my name is Shari Doe. I am the Social Service Director for Burleigh County and I am speaking today on behalf of the ND Social Service Directors Association. We are supporting this bill.

Currently, Medical Assistance applications are processed by the counties and Healthy Steps (SCHIPS) applications are processed by the state. This requires a great deal of coordination and confusion for some recipients. We believe that with the new VISION system, there will be increased coordination and simplification for the recipients and a new opportunity to provide low income health insurance coverage for children.

It is our understanding that when the new VISION System is completed that a request for low income health benefits may be processed by either a county or the state office depending on where an application is received. This should stream line time frames for both programs. This change will require that all counties be trained in Healthy Steps policies and procedures and that DHS eligibility staff will be trained in Medical Assistance policies and procedures. This makes sense. Currently, at the county level, Healthy Steps is seen as an external program similar to WIC or Housing assistance. We suggest that recipient apply for Healthy Steps and may forward information and applications but we do not explain the program and/or determine

eligibility. With the new VISION system, the counties will need to provide detailed information, explain policies, and collect needed verifications to allow for appropriate eligibility.

The majority of public health insurance recipients also receive some other type of economic assistance benefits, such as food stamps or child care assistance. By adding Healthy Steps to the range of service offered at the local level, families that are working to obtain full self sufficiency will have a seamless transition from program to program. If a family does not want the county to be involved in their application they will have the ability to apply at the state level to maintain their anonymity.

There has been some discussion regarding payment to the counties for Healthy Steps related costs. Federal funds (78% federal 22% state) for administration of Healthy Steps programs are allowed up to 10% of total program costs. Counties would like to be able to access available federal reimbursement for the administrative costs of this program. We don't expect state general funds but if we could access available federal funds, it would be advantageous to the property tax payers of North Dakota. We would like to pursue potential payment options with the ND Department of Human Services within the limits of available federal funds.

Thank you for your consideration of this important bill. I will answer any questions

Testimony HB 2410**March 1, 2005**

Chairman Price, members of the committee, my name is Kathy Hogan I am the Social Service Director for Cass County and I am speaking today on behalf of the ND Social Service Directors Association. We are supporting this bill.

Currently, Medical Assistance applications are processed by the counties and Healthy Steps (SCHIPS) applications are processed by the state. This requires significant coordination and confusion for some recipients. We believe that with the new VISION system, there will be increased coordination and simplification for the recipients and a new opportunity to provide low income health insurance coverage for children.

It is our understanding that when the new VISION System is completed that a request for low income health benefits may be processed by either a county or the state office depending on where an application is received. This should stream line time frames for both programs. This change will require that all counties be trained in Healthy Steps policies and procedures and that DHS eligibility staff will be trained in Medical Assistance policies and procedures. We believe that that makes sense. Currently Healthy Steps is seen at the county level as an external program similar to WIC or Housing assistance. We suggest that recipient apply and may forward information and applications but we do not explain the program and/or determine eligibility. With the new VISION system, the counties will need to

provide detailed information, explain policies, and collect needed information to allow for appropriate eligibility.

The majority of public health insurance recipients also receive some other types of economic assistance benefits, such as food stamps or child care assistance. If a family does not want to county to be involved in their application, they will maintain the right to apply at the state level to maintain their anonymity.

There has been some discussion regarding payment for Healthy Steps related costs to the counties. Federal funds (78% federal 22%state) for administration of Healthy Steps programs are allowed up to 10% of total program costs. Counties would like to be able to access available federal reimbursement for the administrative costs of this program. We do not expect state general funds but feel that if we could access available federal funds, it would be advantageous to the property tax payers of North Dakota. We would like to pursue potential payment options with the ND Department of Human Services within the limits of available federal funds.

Thank you for your consideration of this important bill. I will answer any questions

14-09-10

5. This section does not apply to any portion of a lump sum payment that must be paid to satisfy an income withholding order issued under section 14-09-09.15.

Source: S.L. 2003, ch. 125, § 10.

Effective Date.

This section became effective July 1, 2003.

14-09-10. Reciprocal duty of support — Support of poor. It is the duty of the father, the mother, and every child of any person who is unable to support oneself, to maintain that person to the extent of the ability of each. This liability may be enforced by any person furnishing necessities to the person. The promise of an adult child to pay for necessities furnished to the child's parent is binding.

Source: Civ. C. 1877, § 97; R.C. 1895, § 2787; R.C. 1899, § 2787; R.C. 1905, § 4099; C.L. 1913, § 4431; R.C. 1943, § 14-0910; S.L. 1995, ch. 456, § 2.

Admission to State School.

When a father makes application for the admission to the Grafton state school of his son who is unable to maintain himself by work, he impliedly agrees to pay for such care and maintenance as may be furnished by the state school and the fact that section 25-08-22 (since repealed) provides for the extent of the father's liability does not destroy the contractual nature of the father's obligation. *Reith v. County of Mountrail*, 104 N.W.2d 667 (N.D. 1960).

Age of Majority.

A trial court may award child support beyond the age of majority if the child is unable to "maintain himself by work," and a child who has reached age eighteen but is still in high school may, under appropriate circumstances, be considered unable to maintain himself by work. *Freyer v. Freyer*, 427 N.W.2d 348 (N.D. 1988).

Under this section, a trial court may award child support beyond the age of majority if the child is unable to maintain him or herself by work. *Weigel v. Kraft*, 449 N.W.2d 583 (N.D. 1989).

Construing Section.

This section is derived from a nearly identical California statute, and thus the Supreme Court may consider judicial interpretation of the California statute as an aid in construing this section. *Freyer v. Freyer*, 427 N.W.2d 348 (N.D. 1988).

Death of Husband and Father.

The law will imply a pecuniary loss to the wife and children by the death of the husband and father who has been discharging his

obligation to support them and was discharging it at, and immediately prior to, his death. *Umphrey v. Deery*, 78 N.D. 211, 48 N.W.2d 897 (1951).

Divorce Decree.

Modification of divorce decree pursuant to section 14-05-24, whereby father was required to support retarded sons even after they reached their majority provided they continued to be incompetent and unable to care for themselves, was proper, since welfare of children was of prime concern to court and since parents have duty under this section to maintain children unable to maintain themselves. *Wiedrich v. Wiedrich*, 179 N.W.2d 728 (N.D. 1970).

Duty of Children.

The liability established by this section is a secondary liability, being imposed upon children because of their relationship to their parents. *Trinity Medical Ctr., Inc. v. Rubbelke*, 389 N.W.2d 805 (N.D. 1986).

The liability imposed upon the children by this section can be likened to the liability of a guarantor. A guarantor, not being a joint contractor with his principal, is not bound to do what the principal has contracted to do, but only to answer for the consequences of the default of the principal. *Trinity Medical Ctr., Inc. v. Rubbelke*, 389 N.W.2d 805 (N.D. 1986).

This section should not be interpreted so that both parents and children have a primary liability to pay for the necessities furnished to a parent by a third party. *Trinity Medical Ctr., Inc. v. Rubbelke*, 389 N.W.2d 805 (N.D. 1986).

Reciprocal Duty and Liability.

This statute fixes the reciprocal duty and liability between parent and child; either may maintain an action against the other for support where necessity therefore exists. Bis-

marck Hosp. & Deaconesses Home v. Harris, 68 N.D. 374, 280 N.W. 423, 116 A.L.R. 1274 (1938).

The obligation of a child to his parent or parents does not entirely terminate at majority. Henke v. Peyerl, 89 N.W.2d 1 (N.D. 1958).

Recovery by County.

Where the state school accepts a child for care and maintenance pursuant to his father's application, a contract is established between the father and the school and where the county has paid for such care over a period of years a claim filed by the county against the father's estate after his decease is a claim arising upon contract. Reith v. County of Mountrail, 104 N.W.2d 667 (N.D. 1960).

14-09-11. Allowance to parent for support of child. The district court may direct an allowance to be made to a parent of a child out of its property for its past or future support and education on such conditions as may be proper, whenever such direction is for its benefit.

Source: Civ. C. 1877, § 92; R.C. 1895, § 2782; R.C. 1899, § 2782; R.C. 1905, § 4094; C.L. 1913, § 4426; R.C. 1943, § 14-0911.

Collateral References.

Parent and Child ⇐ 3.1(9).

14-09-12. Support by county — Liability of parent's estate. If a parent chargeable with the support of a child dies leaving it chargeable upon the county and leaving an estate sufficient for its support, the board of county commissioners of the county, in the name of the county, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditor against that estate and against the heirs, devisees, and next of kin of the parent.

Source: Civ. C. 1877, § 96; R.C. 1895, § 2786; R.C. 1899, § 2786; R.C. 1905, § 4098; C.L. 1913, § 4430; R.C. 1943, § 14-0912.

Parents Killed by Child.

Child who had feloniously and intentionally killed his parents was precluded by section 30.1-10-03 from receiving any benefit, includ-

Collateral References.

Parent and Child ⇐ 4.

59 Am. Jur. 2d, Parent and Child, §§ 104, 105.

67A C.J.S. Parent and Child, §§ 257-261.

Reimbursement of public for financial assistance to aged persons, 29 A.L.R.2d 731.

Indigent relatives, nature of care contemplated by statute imposing general duty to care for, 92 A.L.R.2d 348.

Constitutionality of statutory provision requiring reimbursement of public by child for financial assistance to aged parents, 75 A.L.R.3d 1159.

Postmajority disability as reviving parental duty to support child, 48 A.L.R.4th 919.

59 Am. Jur. 2d, Parent and Child, §§ 185-190.

67A C.J.S. Parent and Child, §§ 63, 64.

Collateral References.

Death of obligor parent as affecting decree for support of child, 14 A.L.R.5th 557.

14-09-13. Neglect of child — Parent liable to third person. If a parent neglects to provide articles necessary for that parent's child who is under that parent's charge, according to that parent's circumstances, a third person in good faith may supply such necessities and recover the reasonable value thereof from the parent.

Source: Civ. C. 1877, § 98; R.C. 1895, § 2788; R.C. 1899, § 2788; R.C. 1905, § 4100; C.L. 1913, § 4432; R.C. 1943, § 14-0913.

Collateral References.

Parent and Child ⇐ 3.1(13).

59 Am. Jur. 2d, 202.

67A C.J.S. Pa.

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