2009 HOUSE HUMAN SERVICES

HB 1312

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1312

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7425

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz opened the hearing on HB 1312.

Rep. Keiser sponsored and introduced the bill.

Carlee McLeod, representing the ND Chapter of National Academy of Elder Law Attorneys: testified in support of bill. **See attached Testimony #1.**

Chairman Weisz: How many other states (inaudible) maximum allowed.

Carlee McLeod: I don't have the exact states that are left, but I believe that 35 are at the maximum and 13 something lower than that.

Curtis Volesky, Director of Medicaid Eligibility for the Dept. of Human Services: testified in support. **See Testimony #2.**

Chairman Weisz: Where you have the 249 that are over or under can you break it down? And this isn't in the governor's budget, was this in OER?

Curtis Volesky: No.

Shelly Peterson from the ND Long Term Care Association: voiced her support of the bill. Spouses need to live in the way they are accustomed to when they put their mate in the nursing home.

Rep. Nathe: By raising this do you it to help de

Shelly Peterson: We don't (inaudible) through that situation. Don't see where this will change divorce rate.

Linda Wurtz Director for Advocacy for AARP of ND: expressed their support.

NO OPPOSITION.

Chairman Weisz closed the hearing.-

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1312

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8524

Committee Clerk Signature

Minutes:

Chairman Weisz: Let's take up 1312. The minimum monthly maintenance allowance.

Rep. Hofstad: Move for amendments by Curtis Volesky.

Rep. Potter: Second.

Voice Vote: 13 yeas, 0 nays, 0 absent.

MOTION CARRIED.

Chairman Weisz: One area I have not heard from anybody on that this is any issue that needs to be dealt with, but not saying it isn't an issue out there somewhere.

Rep. Nathe: Is this being pushed by the elder law attorneys?

Chairman Weisz: Correct, only ones that testified.

(Much chatter back and forth)

Rep. Potter: Motion for a DO PASS as amended.

Rep. Conrad: Second.

Roll Call Vote: 3 yes, 10 no, 0 absent.

MOTION FAILED.

Rep. Porter: Motion for a DO NOT PASS.

Rep. Nathe: Second.

Roll Call Vote: 11 yes, 2 no, 0 absent.

MOTION CARRIED ON DO NOT PASS

BILL CARRIER: Rep. Nathe.

FISCAL NOTE

Requested by Legislative Council
01/13/2009

Bill/Resolution No.: HB 1312

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures	$30,616	$52,468	$694,924	$1,184,264	$737,176	$1,256,267
Appropriations	$30,616	$52,468	$694,924	$1,184,264	$737,176	$1,256,267

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1312 would increase the minimum monthly maintenance needs allowance to the maximum amount allowed by 42 U.S.C. 1396r-5. This reduces the amount the couple pays toward the long-term care costs, which increases the amount Medicaid pays.

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

Section 1 of the bill increases the amount allowed to be retained as income by a community spouse which will increase the amout Medicaid will pay toward long-term care expenses.

Section 3 declares the bill as an emergency.

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 will be able to access $1,184,264 of federal revenue from the Centers of Medicare and Medicaid.

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.*

Expenditures to implement for the 2009 - 2011 biennium equal $1,879,188, with $694,924 from the general fund as a result of increasing the current community spouse income level of $2,267 per month to $2,739 per month. This is a monthly increase of $472 per month.

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

The Department's appropriation bill (HB 1012) does not include fundng for this change. Additional appropriation authority of $1,879,188 of which $694,924 is from the general fund would be needed.

Name:	Brenda M. Weisz	**Agency:**	DHS
Phone Number:	328-2397	**Date Prepared:**	01/21/2009

Adopted by the Human Services Committee
February 4, 2009

VR
2/4/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1312

Page 1, line 10, after the second "the" insert "second"

Renumber accordingly

Date: 2-3-09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1312

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep Hofstad Seconded By Rep. Potter

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

Total (Yes) 13 No 0

Absent 0

Bill Carrier _____

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

Move on amendments

Motion Carried

DP

Date: 2-3-09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1312

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Potter Seconded By Conrad

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

Total (Yes) 3 No 10

Absent 0

Bill Carrier _____

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

DO PASS AS Amended failed

Date: 2-3-09

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1312

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☒ Amended

Motion Made By Rep Porter Seconded By Rep Nathe

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

Total (Yes) 11 No 2

Absent 0

Bill Carrier Rep. Nathe

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

Vote on Do not pass

Motion carried
DNP

REPORT OF STANDING COMMITTEE

HB 1312: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1312 was placed on the Sixth order on the calendar.

Page 1, line 10, after the second "the" insert "second"

Renumber accordingly

2009 TESTIMONY

HB 1312

#1

House Bill 1312

House Human Services Committee

January 21, 2009

Chairman Weisz, members of the committee, my name is Carlee McLeod, and I come before you today representing the North Dakota Chapter of the National Academy of Elder Law Attorneys in support of House Bill 1312.

The language of this bill sets the minimum monthly needs allowance at the maximum rate allowed under federal Medicaid law. The minimum monthly maintenance needs allowance is the amount of money a community spouse is entitled to use for his or her monthly needs. If the community spouse's income does not reach the level set by the state, the institutionalized spouse's income may be transferred to the community spouse to bring him or her up to that level. The remainder of the institutionalized spouse's income is put toward nursing home care.

For example, let's say the institutionalized spouse has an income of $1,500 per month from social security. His wife, who is a community spouse, has an income of $1,200 per month from employment or other income streams. If the MMMNA is set at $2,267, the institutional spouse may transfer $1067 to the community spouse each month to ensure that her needs are met. The remaining income of the institutionalized spouse is paid to the nursing home as recipient liability to offset the cost of nursing care.

Currently, the amount of the MMMNA is set by administrative rule. Prior to 2003, North Dakota's citizens were guaranteed a MMMNA at the federal maximum. In 2003, the Department of Human Services placed a freeze on the amount allowed under the

MMMNA. The freeze is in place until the federal minimum meets the level allowed at that time in North Dakota. Once the federal minimum rises to the level of the MMMNA in North Dakota, our rate would rise consistent with the federal minimum. In other words, North Dakota's MMMNA will remain at that level until the federal minimum rises to that level, and after that point North Dakota's MMMNA will be set at the federal minimum.

The MMMNA is a substantive issue that should be set in the North Dakota Century Code. Passing this bill would allow the level to rise in accordance with federal Medicaid law, rather than being adjusted as DHS decides is appropriate.

Currently, the federal minimum MMMNA is set at $1,750, and the maximum is $2,739. It is adjusted annually. By setting the MMMNA to the federal maximum, you would allow North Dakota seniors to retain a larger amount of their own income stream. Recent legislation regarding property tax has placed an emphasis on the needs of limited income elderly members of society. Since the freeze has been in place in North Dakota, the economy has changed drastically. With rising heating, food and fuel costs, healthcare and medication costs, seniors' dollars are being stretched to the limit. It is crucial that we keep their income stream at a level which can meet their needs, so that they maintain their dignity and do not become impoverished.

We urge a DO PASS recommendation from this committee. Thank you.

HB 1312

Testimony
House Bill 1312 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
January 21, 2009

Chairman Weisz, members of the House Human Services Committee, I am Curtis Volesky, Director of Medicaid Eligibility for the Department of Human Services. The Department is here today to provide information, request an amendment, and identify a fiscal impact for House Bill 1312.

Minimum Monthly Maintenance Needs Allowance

The minimum monthly maintenance needs allowance, commonly referred to as "the community spouse income level," applies to Medicaid spousal impoverishment cases. Medicaid spousal impoverishment situations occur when an individual applies for Medicaid coverage of long-term care services, and has a non-Medicaid spouse that resides in the community. The spousal impoverishment provisions allow the community spouse to keep more income to meet maintenance needs.

A community spouse is allowed to keep all of his or her own income regardless of the amount; however, if the community spouse has income below the community spouse income level (the minimum monthly maintenance needs allowance), the institutionalized spouse can give his or her excess income to the community spouse to bring the community spouse's total income up to the community spouse income level. This transfer of income reduces the amount the institutionalized spouse pays toward his or her cost of care.

The Medicaid program stopped increasing the community spouse income level in 2003 due to budget constraints. The current community spouse income level is $2,267 per month. An increase to the maximum community spouse income level allowed under federal statute would raise that amount to $2,739 in 2009. This is an increase of $472 per month, and the maximum would increase each January.

There are currently 359 spousal impoverishment cases on Medicaid. This change would affect 110 of those cases. The remaining 249 cases would not be affected because either the couple's total income is below the current community spouse income level of $2,267, or the community spouse currently has income above $2,739.

Amendment

Section 2 of House Bill 1312 makes this change effective on the first day of the month following its filing with the Secretary of State. The proposed amendment would make the change effective on the first day of the second month following filing. Eligibility determinations for all currently open Medicaid cases are budgeted by month and are budgeted prospectively, one month in advance. For instance, on April 1 eligibility workers begin budgeting cases for the month of May. If the bill were filed in March and became effective April 1, eligibility for April would have to be recalculated before the bill took effect on April 1. To process eligibility determinations allowing the higher income level, minor computer system updates would be needed and eligibility workers need to be informed. The additional time added by the amendment would allow for the Department to put these changes into place and would accommodate the prospective budgeting.

Fiscal Impact

The increase in the amount of income that can be given to the community spouse reduces the amount the institutionalized spouse pays, which in turn increases the amount Medicaid must pay. This change is anticipated to increase costs to the Medicaid program by $1,879,188 ($1,184,264 federal funds / $694,924 general funds) for the 2009 – 2011 biennium. The emergency clause on the bill would require Medicaid to implement the change earlier at an average cost of $41,542 per month for each month prior to July. The fiscal note that was prepared estimates an effective date of May 1, 2009, for a total fiscal impact of $83,084.

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

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1312

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Renumber accordingly