

2009 SENATE HUMAN SERVICES

SB 2280

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2280

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-2-09

Recorder Job Number: 8326

Committee Clerk Signature

Mary K. Mouson

Minutes:

Senator J. Lee opened the hearing on SB 2280 relating to federally required parity for mental health and substance abuse insurance coverage.

Sen. Tim Mathern (District 11) introduced SB 2280 with testimony in support. Attachment #1.

Senator J. Lee said a cost benefit analysis had been requested. She asked if he would have reason to expect that companies would reduce coverage to fit the minimum.

Sen. Mathern said he did not have any specific examples of that. He said the idea is really to understand the impact of the federal law on the state law and vice versa earlier rather than later so families aren't caught in a situation of the different interpretations.

Senator J. Lee asked if he had any insight as to where the profession is with this and what would be covered under the definition of mental health care.

Sen. Mathern said the feedback he has gotten is that ND law and ND insurance companies have come to some workable situation as to what is covered and what is not. The attempt is really to just keep that in place.

Opposing testimony.

Dan Ulmer (Blue Cross) said it is with great trepidation that they oppose this. In their minds it is meddling with a mandate. The present mandates for mental health are only for groups,

including small group, not for individuals. Under this particular bill, the mental health parity bill, the federal act only applies to groups over 50. This bill would take the federal parity mandate and apply it to all groups.

The federal law is set to go into effect October 2009. They have no idea what the federal rules are. It has caused a problem.

Blue Cross provides mental health benefits in all of their policies, so they take the existing mandate and apply it across the board on all of their policies.

The big issue is how the dates cross over.

Another concern is when the parity law goes into place whether or not it applies to all contracts or contracts that are issued and renewed from henceforth. How does the parity law affect the PERS contract?

The language was also a concern— “The coverage required under this section is in addition to”. They aren’t sure what that means.

Senator Heckaman asked what percentage the individual would be not covered under this.

Mr. Ulmer said about 10%.

Senator Dever asked what the implications would be to consider this bill next session instead of this time.

Mr. Ulmer wasn’t sure. The federal act is going to occur regardless. Is there some way to monitor it, some way to put a trigger process into the interim to make sure it functions?

Senator J. Lee said that part of her concern was that they don’t know enough to know where they are heading with this. It could mean that it doesn’t mean anything financially or it could mean a significant change.

Mr. Ulmer said that ND has one of the better mandates in the country in terms of treatment mandates. They are concerned with how this shakes out and how it actually works.

Neutral testimony.

Senator J. Lee asked Mr. Collins to give an observation from his view.

Sparb Collins (ND PERS) said that at this point there is a lot of fog. They became aware of the bill last week and are trying to sort through what the implication is.

Rod St. Aubyn (Blue Cross) agreed that there is a lot of uncertainty of when this is going to go into effect. He suggested different scenarios.

The hearing on SB 2280 was closed.

Discussion followed on the timing issues and the challenges involved with this. Until the rules are known it is hard to know how to proceed. If the committee passes the bill it will need to be rereferred.

Vance Magnusson from the Insurance Dept. approached the podium and talked about the language that adds in "addition". From Sen. Mathern's comments, he wanted to make sure ND's mandate would still apply. The Ins. Dept. had looked at the bill and the position is that this will apply to those groups that aren't affected by the federal legislation. It is still a mandate that is affected by the federal regulations. The parity law passed by the feds doesn't have any mandates as far as coverage. It does define parity. He explained that parity already exists in our statute for hospital based coverage.

There was discussion on what would happen if the bill isn't passed.

Senator Dever moved a **Do Not Pass on SB 2280**.

Senator Erbele seconded the motion.

Roll call vote 4-2-0. Motion carried.

Carrier is **Senator Dever**.

Date: 2-2-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB2280

Senate Human Services Committee

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Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Dever Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman		✓
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais		✓
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 4 No 2

Absent 0

Floor Assignment Senator Dever

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

REPORT OF STANDING COMMITTEE (410)
February 2, 2009 1:06 p.m.

Module No: SR-20-1399
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2280: Human Services Committee (Sen. J. Lee, Chairman) recommends DO NOT PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2280 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2280

Human Services Committee

February 2, 2009

Senator Tim Mathern

Madame Chairman Lee and Members of the Human Service Committee

My name is Tim Mathern. I am the Senator from District 11 in Fargo and I am here to introduce SB 2280. Passage of this bill will give us assurance that North Dakota laws regarding mental health and substance abuse services remain in place alongside the new federal law signed by President Bush last fall. The goal of the bill is not to increase state mandates but to be proactive to eliminate any such questions when the federal law is implemented. A partial summary of the federal legislation prepared by the American Psychiatric Association is as follows;

This information was provided by APA's Department of Government Relations (DGR).

- The law amends the Mental Health Parity Act of 1996 to require that group health plans of 50 or more employees that provide both medical and surgical benefits and mental health or substance use benefits must have financial requirements and treatment limitations for mental health/substance use disorder benefits that are no more restrictive than those placed on medical/surgical benefits. Equity coverage applies to all financial requirements, including deductibles, copayments, coinsurance, and out-of-pocket expenses, and to all treatment limitations, including frequency of treatment, number of visits, days of coverage, or other similar limits.
- The law goes into effect on October 3, 2009—a year from the date of its enactment. For most plans, this means the effective date is January 1, 2010. Plans maintained under collective bargaining agreements ratified before the enactment date are not subject to the law until they terminate (or until January 1, 2009, if this is a later date). In the period leading up to the law's becoming effective, federal agencies will develop implementation rules, and the public will have an opportunity to comment on proposals.
- If a group health plan experiences an increase in actual total costs with respect to medical/surgical and mental health/substance use benefits of 1 percent (or 2

percent in the first plan year that the law is in effect), the plan can be exempted from the law. Plans may opt out for only one year and may be under audit by the Department of Health and Human Services, the Department of Labor, and actuarial analysis to assure transparency.

The three sections of SB 2280, though they have essentially the same wording, are needed to correspond to the three different sections of the Century Code that deal with this topic.

Members of the Committee, North Dakota can be proud of the legislation we have in place much of which passed through your leadership in previous sessions. Let us keep it that way.

Thank you for the attention you will be giving to presenters coming before you. I ask your Committee to give this bill a Do Pass recommendation.

I am happy to address any questions you have.

Thank you for your time and consideration.



North Dakota Legislative Council

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January 26, 2009

Ms. Leigh M. Wachenheim
Principal and Consulting Actuary
Milliman Consultants and Actuaries
8500 Normandale Lake Boulevard, Suite 1850
Minneapolis, MN 55437-3850

Dear Ms. Wachenheim:

Enclosed are copies of Senate Bill Nos. 2280 and 2294. Each bill requires a cost-benefit analysis. Senate Bill No. 2280 relates to federal required parity for mental health and substance abuse insurance coverage. Senate Bill No. 2294 requires insurance policies to provide coverage for telemedicine. As required by North Dakota Century Code Section 54-03-28, the mandate only applies to the public employees health insurance plan for two years.

If you have any questions regarding the meaning of this bill, please contact either the North Dakota Insurance Department staff or Jennifer S. N. Clark with the Legislative Council staff.

The Senate Human Services Committee requested this cost-benefit analysis. We would appreciate your response as soon as possible.

Please let us know if you have any questions.

Sincerely,

Jim W. Smith
Director

JWS/PG

Enc.

cc: Senator Judy Lee
Commissioner Adam W. Hamm

NDLA, S HMS

From: Lee, Judy E.
Sent: Wednesday, February 18, 2009 4:39 PM
To: NDLA, S HMS
Subject: FW: Senate Bill 2280
Attachments: SB 2280 2-18-09.pdf

Mary –
Please put a copy of this attachment in the file for SB 2280.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

From: Kenton J Roepke [<mailto:Kenton.Roepke@milliman.com>]
Sent: Wednesday, February 18, 2009 4:17 PM
To: Clark, Jennifer S.
Cc: Lee, Judy E.; Hamm, Adam W.
Subject: Senate Bill 2280

please see attached

Kenton J Roepke, ASA, MAAA
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February 18, 2009

Mr. Jim W. Smith
Director
North Dakota Legislative Council
600 E Boulevard
Bismarck, ND 58505-0360

Re: Analysis of Senate Bill 2280

Dear Mr. Smith:

Thank you for your letter of January 26, 2009 requesting a cost-benefit analysis of the mandate included in Senate Bill 2280. In accordance with North Dakota Century Code (NDCC) 54-03-28, you asked that we provide information to help determine the following:

- a. the extent to which the proposed mandate would increase or decrease the cost of the service;
- b. the extent to which the proposed mandate would increase the appropriate use of the service;
- c. the extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds; and
- d. the impact of the proposed mandate on the total cost of health care.

This letter is intended for use by North Dakota legislators and officials for the purpose of considering this proposed legislation. This letter should not be used for other purposes. To the extent that this letter is not subject to disclosure under public records laws, this document should not be distributed to third parties without Milliman's prior written consent. This document may only be released in its entirety. Milliman does not intend to benefit and assumes no duty or liability to other parties who may receive this work.

The results in this letter are technical in nature and are dependent upon specific assumptions and methods. No party should rely upon these results without a thorough understanding of medical insurance policies and how they are priced. Such an understanding may require consultation with qualified professionals.

In doing our work, we have relied on the data and information cited in this letter. This information includes the Senate Bill attached to your letter and various emails and phone conversations. If there are changes to the bill, the comments here may no longer be appropriate. This letter is subject to the Professional Services Contract between the State of North Dakota and Milliman executed on January 6, 2009.

Bill No. 2280 – Mental Health Parity

Senate Bill 2280 amends section 26.1-36-08 and section 26.1-36-09 of the NDCC. The language in the bill points to a section of federal legislation contained in Sections 511 and 512 of the Federal Emergency Economic Stabilization Act of 2008, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. Sections 511 and 512 refer to various pieces of federal legislation with instructions on replacing the words "Mental Health" with "Mental Health or Substance Use Disorder". The intention of section 511 and 512 appears to include Substance Use Disorder benefits as part of the Mental Health Parity legislation.

Section 26.1-36-08 of the NDCC refers to parity of substance abuse coverage. In other words, the federal legislation does not appear to be adding anything to the State legislation that is already in place. After discussing this issue and exchanging emails with Jennifer Clark at the Legislative Council, we agree with Ms. Clark's assessment that the new subsections being created in the bill do not in and of themselves create any new health insurance coverage. Instead, the new subsections appear to merely clarify that the existing state mental health and substance abuse coverage mandates are in addition to any federal mandate that may be required under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. The new language would have the impact of putting the reader on notice that there may be federally mandated insurance coverage regarding mental health or substance abuse services.

In order to comply with NDCC 54-03-28, we have considered the impact of the proposed mandate and concluded that it will not have any impact on the cost, use, or administrative costs of health insurance coverage under North Dakota Public Employees Retirement System over the next two years. Our conclusion should not be considered a formal legal opinion. We are not attorneys and do not render legal opinions.



Based on the assumption that Senate Bill 2280 will not impact current law, this letter contains estimates of future experience. If this bill impacts coverage in any way, it is certain that actual experience will not conform exactly to the assumptions used in this analysis and we recommend that the State re-visit this analysis.

Jim, I hope this letter is helpful to you as you consider this bill. If you have questions regarding this letter, or would like us to do additional analysis, please feel free to contact me at (952) 820-2474 or kent.roepke@milliman.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'KJ Roepke'.

Kenton J. Roepke, ASA, MAAA
Consulting Actuary

KJR/mtf