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Testimony
House Bill No. 1261
House Human Services Committee
Representative Weisz, Chairman

January 16, 2023

Chairman Weisz and members of the House Human Services Committee, I am Krista Fremming, Interim Director of Medical Services with the Department of Health and Human Services (Department). I appear before you in opposition to House Bill No. 1261.

It is unclear what problem this Bill is trying to solve. Advocates for an IMD waiver have focused on the need for Medicaid to pay for inpatient and residential treatment services for adult Medicaid members with substance use disorders (SUD). North Dakota already has a mechanism to pay for SUD treatment when Medicaid cannot pay – through the state SUD voucher program. In fact, the SUD voucher was established to cover gaps in paying for treatment for low-income North Dakotans, including Medicaid members.

There are only four facilities in the state for which this waiver would enable Medicaid payment for adults that does not currently exist: the State Hospital, Prairie St. John's, ShareHouse and Prairie Recovery Center. Medicaid members are already able to receive outpatient services through these facilities. Medicaid members who need detoxification, inpatient or residential treatment services may receive them through the many other facilities that are 16 beds or less, as well as at hospitals throughout the state.

In addition, there have been several studies conducted in recent years which assessed North Dakota's behavioral health system of care. The findings in these reports support the Department's position against this Bill:

- *Expansion efforts should focus on increased capacity for outpatient treatment that reduces demand for inpatient treatment. A number of states have obtained an IMD exclusion waiver for SUD treatment and more recently mental health; however, this would not address the most important needs in ND and is counter to the thrust of recommendations to reduce inpatient utilization.* (North Dakota Hospital Study, Human Services Research Institute, 2020).
- *North Dakota residential and inpatient facilities are smaller than the US average, but utilization rates are considerably lower. North Dakota's lower utilization rate is further evidence of an adequate supply of substance use residential treatment beds.* (North Dakota Residential Treatment Facility Capacity, Human Services Research Institute, 2020).
- *While some residential and inpatient services are needed to meet the needs of the community, over-relying on these services is problematic for many reasons, which are discussed throughout the report. Chiefly, these arrangements are inefficient from a cost perspective and undesirable from a population health perspective. Our recommendations focus on ways the state might strategically examine utilization patterns and need for services to ensure people receive the right level of care at the right time. Such strategies will allow the state to disinvest from costly and undesirable institutional services and reinvest funding upstream to promote population health and prevent and reduce the need for intensive behavioral*

health services. (North Dakota Behavioral Health System Study, Human Services Research Institute, 2018).

The Department also has concerns that the appropriation in this Bill would not be sufficient to complete the work described. We have consulted with other states that have implemented these waivers and it would take a larger initial investment. In the 23-25 biennium, we estimate the need for $2.5 million in vendor contracts for subject matter expertise, five full-time equivalent positions and $1.15 million to fund those positions.

1115 waivers of this nature are large, complicated and come with a lot of federal requirements and reporting. The Department would need to conduct a gap analysis, develop a phased implementation plan to address the gaps and come back to the 2025 legislature with requests for additional funding to address the gaps. It seems that the gap analysis and related work would be duplicative of work that is already happening or has recently happened. To a large extent, we know what needs to be done to further develop the behavioral health system of care in North Dakota, and we don't believe the answer is more Medicaid payments to institutions.

If we had a legislature that wasn't willing to invest in community-based SUD treatment services, this waiver would be a way to force the hand of the legislature for that purpose. Fortunately, the legislature has seen the need to develop this side of the behavioral health continuum. As the community-based behavioral health system is further developed, the Department is committed to using federal Medicaid resources whenever possible to pay for services and supports, and we would like to work with the legislature to make this happen.

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This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.