



# North Dakota Legislative Council

Prepared for the Human Services Committee  
LC# 23.9055.01000  
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## OTHER DUTIES OF THE HUMAN SERVICES COMMITTEE - BACKGROUND MEMORANDUM

In addition to the study responsibilities assigned to the Human Services Committee for the 2021-22 interim, the committee has also been assigned to:

- Receive annual reports from the Autism Spectrum Disorder Task Force (North Dakota Century Code Section 50-06-32 ([Appendix A](#))).
- Receive a report from the Department of Human Services (DHS) regarding the autism spectrum disorder program pilot project (Section 50-06-32.1 ([Appendix B](#))).
- Receive a report from DHS and the steering committee for the developmental disabilities system reimbursement project on development activities and status information for the project (Section 50-06-37 ([Appendix C](#))).
- Receive a report from DHS before August 1 of each even-numbered year regarding provider reimbursement rates under the medical assistance expansion program (Section 50-24.1-37 ([Appendix D](#))).
- Receive a biennial report before August of each even-numbered year from DHS on the tribal health care coordination fund and tribal government use of money distributed from the fund (Section 50-24.1-40(4) ([Appendix E](#))).
- Receive annual reports from DHS describing enrollment statistics and costs associated with the children's health insurance program state plan (Section 50-29-02 ([Appendix F](#))).
- Receive reports from DHS regarding human service zone employment and indirect costs (Section 50-35-02 ([Appendix G](#))).
- Receive a report from DHS regarding refugee resettlement services (Section 20 of [House Bill No. 1012 \(2021\)](#)).
- Receive a report from DHS before October 1, 2022, regarding the early and periodic screening, diagnostic, and treatment program study conducted by the department (Section 59 of [House Bill No. 1012 \(2021\)](#)).
- Receive a report from DHS before October 1, 2022, regarding a revised payment methodology for basic care facilities (Section 60 of [House Bill No. 1012 \(2021\)](#)).
- Receive a report from DHS regarding the status of four-year old program approvals, the Early Childhood Education Council, and the early childhood grant for best in class four-year old experiences (Section 61 of [House Bill No. 1012 \(2021\)](#)).
- Receive reports from the State Health Officer, the Executive Director of DHS, and then the Executive Director of the Department of Health and Human Services regarding the merger of the State Department of Health and DHS (Section 511 of [House Bill No. 1247 \(2021\)](#)).
- Receive a report from DHS regarding the department's quality strategy (Section 1 of [Senate Bill No. 2135 \(2021\)](#)).

### AUTISM SPECTRUM DISORDER TASK FORCE

Senate Bill No. 2174 (2009), codified as Section 50-06-32, established an Autism Spectrum Disorder Task Force consisting of the State Health Officer, the Executive Director of DHS, the Superintendent of Public Instruction, the Executive Director of the Protection and Advocacy Project, and the following members appointed by the Governor:

- A pediatrician with expertise in the area of autism spectrum disorder;
- A psychologist with expertise in the area of autism spectrum disorder;
- A college of education faculty member with expertise in the area of autism spectrum disorder;

- A behavioral specialist;
- A licensed teacher with expertise in the area of autism spectrum disorder;
- An occupational therapist;
- A representative of a health insurance company doing business in the state;
- A representative of a licensed residential care facility for individuals with autism spectrum disorder;
- An enrolled member of a federally recognized Indian tribe;
- An adult advocate with autism spectrum disorder;
- A parent of a child with autism spectrum disorder;
- A family member of an adult with autism spectrum disorder; and
- A member of the Legislative Assembly.

The task force is to examine early intervention and family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.

The task force is to develop a state autism spectrum disorder plan and continue to review and periodically update or amend the plan to serve the needs of individuals with autism spectrum disorder. The task force is to provide an annual report to the Governor and the Legislative Council regarding the status of the state autism spectrum disorder plan.

### **AUTISM SPECTRUM DISORDER VOUCHER PROGRAM PILOT PROJECT**

House Bill No. 1038 (2013), codified as Section 50-06-32.1, required DHS to establish a voucher program pilot project beginning July 1, 2014, to assist in funding equipment and general educational needs related to autism spectrum disorder for individuals below 200 percent of the federal poverty level from age 3 to under age 18 who have been diagnosed with autism spectrum disorder. In addition, the department is required to adopt rules addressing management of the voucher program pilot project and to establish eligibility requirements and exclusions for the voucher program pilot project. The section further provides the department is to report to the Legislative Management regarding the pilot project. When enacted, the section included a sunset clause for the section to expire on June 30, 2015. However, Section 13 of Senate Bill No. 2012 (2015) provided for the continuation of Section 50-06-32.1 without a sunset clause.

Section 3 of Senate Bill No. 2089 (2021) provides legislative intent that DHS adopt rules to seek additional flexibility for the administration of the autism spectrum disorder voucher program to ensure families can be served within available appropriations for the program. The administrative code changes should consider changes that include reducing the amount of approved voucher funds available to each household and the amount of time during which a household may use approved voucher funds

### **DEVELOPMENTAL DISABILITIES SYSTEM REIMBURSEMENT PROJECT**

Section 50-06-37, as enacted by Senate Bill No. 2043 (2011), required DHS, in conjunction with developmental disabilities providers, to develop a prospective developmental disabilities payment system based on the support intensity scale. A steering committee was created to guide DHS on the development of the new payment system. The new payment system was implemented on April 1, 2018. The new system is based on a needs assessment for each individual served and rates that are standardized across all providers.

Section 50-06-37 was amended by Senate Bill No. 2247 (2019) to provide DHS maintain the payment system based on a state-approved assessment. A steering committee of no more than 18 individuals is to be used to provide guidance for the system. The steering committee must include no more than two clients, no more than one family member of a client, a representative of DHS, and a representative of the Protection and Advocacy Project. The steering committee is to analyze appropriate data and recommend to DHS any rate adjustments, resource allocation modifications, or process assumptions. The department and the steering committee are to report developmental activities and state information to the Legislative Management.

## **MEDICAID EXPANSION PROVIDER REIMBURSEMENT RATES**

Section 32 of House Bill No. 1012 (2021) continues the Medicaid Expansion program by removing the sunset clause on Section 50-24.1-37. The section provides for the contract between DHS and the insurance carrier to include a provision for the carrier to provide DHS with provider reimbursement rate information when selecting a carrier. The section also requires DHS to provide the Legislative Management a report regarding provider reimbursement rates under the medical assistance expansion program.

## **TRIBAL HEALTH CARE COORDINATION FUND**

Section 50-24.1-40, as enacted in House Bill No. 1194 (2019), provides for DHS to facilitate care coordination agreements between health care providers and tribal health care organizations that will result in 100 percent federal funding for eligible medical assistance provided to an American Indian. The section, as originally enacted, created a tribal health care coordination fund and provided that any funding received in excess of the state's regular share of federal medical assistance funding due to a care coordination agreement was to be deposited 60 percent in the tribal health care coordination fund and 40 percent in the general fund. House Bill No. 1407 (2021) amended the section to provide that any funding received in excess of the state's regular share of federal medical assistance funding due to a care coordination agreement is to be deposited 80 percent in the tribal health care coordination fund and 20 percent in the general fund. Money in the tribal health care coordination fund is appropriated on a continuing basis for distribution to tribal government in accordance with agreements between DHS and the tribal governments. The agreements must require the tribal governments to use funding distributed from the tribal health care coordination fund for the ten essential services of public health identified by the federal Centers for Disease Control and Prevention and the development or enhancement of community health representative programs or services. Through June 30, 2025, no more than 50 percent, and after that 35 percent, may be used for capital construction. The agreements between DHS and tribal governments must also require tribal governments to submit annual reports to DHS regarding the use of money distributed from the tribal health care coordination fund. Tribal governments must also submit to DHS every 2 years an audit report regarding the use of funding distributed from the tribal health care coordination fund.

The Department of Human Services is to provide a report to the Legislative Management before August 1 of each even-numbered year regarding the tribal health care coordination fund including how participating tribal governments used funding distributed from the fund.

## **CHILDREN'S HEALTH INSURANCE PROGRAM**

Section 50-29-02 provides DHS is to prepare, submit, and implement a children's health insurance program state plan and report annually to the Legislative Management. The report must include enrollment statistics and costs associated with the plan.

Healthy Steps--North Dakota's children's health insurance plan--provides premium-free health coverage to uninsured children in qualifying families. It is intended to help meet the health care needs of children from working families that earn too much to qualify for full Medicaid coverage but not enough to afford private insurance. To be eligible for the program, the family's net income may not exceed 175 percent of the federal poverty level.

## **HUMAN SERVICE ZONE EMPLOYMENT AND INDIRECT COSTS**

### **Zone Employment**

Section 50-35-02, as amended by Senate Bill No. 2086 (2021), provides for DHS, with assistance from the North Dakota Association of Counties and human service zone directors, to develop a process for allowing a human services zone to opt in to state employment. The process must identify under what conditions and factors a transition to state employment may or may not be desirable for a human service zone and the department; outline the governance process for choosing to opt in to state employment, including a description of the role of the human service zone board, county commissions, and the department; and include a template and potential timeline for any zone choosing to make the transition to state employment. Before August 1, 2022, the department is to report to the Legislative Management the process developed for allowing a human service zone to opt in to state employment. The transition to state employment is contingent on the approval from the Legislative Assembly

### **Indirect Costs**

Section 50-35-02, as amended by Senate Bill No. 2086 (2021), provides for DHS, with assistance from the North Dakota Association of Counties and human service zone directors, to study human service zone indirect costs. The study must identify a plan defining the process to calculate payment for indirect costs. Section 50-35-01 defines indirect costs as salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. Indirect costs include legal representation; facilities and related costs,

such as utilities and maintenance; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services. Before August 1, 2022, the department is to report to the Legislative Management the process developed to calculate payment for indirect costs.

### **REFUGEE RESETTLEMENT SERVICES**

Section 20 of House Bill No. 1012 (2021) provides for DHS to provide a report to the Legislative Management regarding refugee resettlement services. The section also provides for DHS to collaborate with federal and private placement entities to resettle refugees in at least five geographically diverse communities in the state with a goal of resettling 25 percent of new refugees outside of existing resettlement communities.

Section 50-06-01.4 assigns responsibility for refugee services to DHS. Until 2010, the department employed a full-time refugee coordinator and administered the Refugee Resettlement program. The department acted as a fiscal passthrough agent for federal refugee services funding and played a larger role overall in the state's involvement in refugee resettlement. In July 2010, as the result of a memorandum of understanding between the department and Lutheran Social Services, the department transitioned most refugee-related services to Lutheran Social Services. The decision to transition refugee resettlement services was an executive branch decision by Governor John Hoeven. The transition shifted the responsibility for securing federal grant funding, providing services, and fulfilling required reporting requirements to Lutheran Social Services, the only federally recognized and approved refugee resettlement organization in the state. In early 2021, Lutheran Social Services discontinued operations. The 2021 Legislative Assembly added \$4.3 million of federal funding and 4 FTE positions to the DHS budget for the 2021-23 biennium for the department to administer refugee resettlement services.

### **EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT PROGRAM STUDY**

Section 59 of House Bill No. 1012 (2021) requires DHS to conduct a study of the early and periodic screening, diagnostic, and treatment program and to prepare a report. The report is to include data on the number, ages, and geographic locations of children receiving screening, diagnostic, and treatment services; the capacity of the program to ensure all children who require screening, diagnostic, and treatment services are identified and receive services; data on the disposition of referrals of children who are screened and eligible for diagnostic and treatment services, including how many receive services and how many do not receive those services by county; an assessment of the program's efforts to provide comprehensive screening and treatment for children as required by federal law; an assessment of the deficits of the program's efforts to provide comprehensive screening and treatment as required by federal law; recommendations to ensure or expand services so that all eligible children are adequately served by the program; and additional data needed to assess the program's accountability and efficiency. Before October 1, 2022, DHS is to provide the report to the Legislative Management.

The early and periodic screening, diagnostic, and treatment program, also known as North Dakota Health Tracks, is a preventative health care program for newborns and children through age 20 who are enrolled in Medicaid. The program provides preventative health screenings and well-child checkups to help prevent and identify health problems. Services that may be provided under the program include physical exams, hearing and vision checks, glasses and hearing aids, vaccines, dental care, health education, behavioral health screenings, growth and development checks, nutrition counseling, and other health services.

### **BASIC CARE FACILITY PAYMENT METHODOLOGY**

Section 60 of House Bill No. 1012 (2021) requires DHS to develop a revised payment methodology for basic care facilities. The department, in collaboration with basic care providers and other representatives of the basic care industry, is to develop a report for payment methodology revisions for basic care facilities that must include recommendations for:

1. Methods of reimbursement for basic care facility cost categories, including direct care, indirect care, room and board, and property; and
2. The feasibility of standardizing payments for basic care facilities in the same peer group.

Before October 1, 2022, the department shall present the report to the Legislative Management regarding the revised payment methodology. The estimated costs related to the implementation of the payment methodology revisions must be included in the department's 2023-25 biennium budget request submitted to the 68<sup>th</sup> Legislative Assembly.

## **EARLY CHILDHOOD PROGRAMS**

Section 61 of House Bill No. 1012 (2021) requires DHS to provide a report to the Legislative Management regarding the status of four-year old program approvals, the North Dakota early childhood council, and the early childhood grant for best in class four-year old experiences.

House Bill No. 1416 (2021) transferred early childhood education duties from the Department of Public Instruction to DHS. The bill allows local school districts to establish four-year old programs and provides for DHS to approve the programs. The Legislative Assembly transferred 3 FTE positions and \$700,000, of which \$300,000 is from the general fund, from the Department of Public Instruction to DHS.

House Bill No. 1466 created the best in class four-year old program grant. Four-year old programs are approved child care programs operated by a public or private educational entity or an early childhood program designed to serve 4-year olds. A four-year old program may apply for a grant of up to \$120,000 per group size and must provide \$20,000 of matching funds. Grant recipients must follow guidelines regarding the admission of children into the program and educational content provided. The grant program is effective through June 30, 2025. The Legislative Assembly appropriated 3.7 FTE positions and \$5,458,910 of which \$1,500,000 is from the general fund for the program for the 2021-23 biennium. In June 2021, the Emergency Commission and Budget Section authorized DHS to receive and expend an additional \$1,700,000 of federal COVID-19 relief funding received by the Department of Public Instruction for the grant program.

## **MERGER OF THE DEPARTMENT OF HUMAN SERVICES AND STATE DEPARTMENT OF HEALTH**

The Legislative Assembly, in House Bill No. 1247 (2021), provided for the merger of the State Department of Health and DHS to create the Department of Health and Human Services. In House Bill No. 1247, the Legislative Assembly provided legislative intent that, effective September 1, 2022, the State Department of Health merge into DHS and both agencies be called the Department of Health and Human Services and that, effective September 1, 2022, the State Department of Health, including the State Health Officer, be under the authority of the Executive Director of DHS who will be the Executive Director of the Department of Health and Human Services. Legislative intent also provides that during the 2021-23 biennium, the Executive Director of the former DHS review and reorganize the structure of the former DHS to incorporate the former State Department of Health and to find efficiencies in the newly formed Department of Health and Human Services. Section 511 of House Bill No. 1247 provides for the State Health Officer, the Executive Director of DHS, and then the Executive Director of the Department of Health and Human Services to provide reports to the Legislative Management regarding the status of the merger.

## **DEPARTMENT OF HUMAN SERVICES QUALITY STRATEGY**

Senate Bill No. 2135 (2021) requires DHS to provide a report to the Legislative Management by July 1, 2022, regarding the department's quality strategy. The report is to include quality data, verification the department shared the report with stakeholders such as the State Department of Health and North Dakota Health Information Network, and recommendations for improvement.

ATTACH:7