



North Dakota Legislative Council

Prepared for the Health Services Committee
LC# 25.9035.01000
August 2023

STUDY OF BRAIN INJURY SERVICES - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3021 (2023) ([appendix](#)) provides for a Legislative Management study regarding whether the services provided in the state relating to the care and treatment of individuals with brain injury are adequate. As part of the study, the Health Services Committee is to review the state's existing programs to identify potential pathways and treatment options for individuals with brain injury, gap identification with programmatic recommendations identifying potential strategies to address the gaps, potential federal and state funding sources for services, and developing a method to evaluate the efficacy of new programs. The committee is to report its findings and recommendations, together with any legislation required to implement the recommendations to the 69th Legislative Assembly.

STATUTORY PROVISIONS

Definition of Brain Injury

North Dakota Century Code Section 50-06.4-01 provides "brain injury" means damage to the brain or the coverings of the brain which produces an altered mental state and results in a decrease in cognitive, behavioral, emotional, or physical functioning. The term does not include an insult of a degenerative or congenital nature.

Lead Agency to Provide Services

Section 50-06.4-02 provides the Department of Health and Human Services (DHHS) "shall act as lead agency in the state for the purpose of coordinating services to individuals with brain injury. At least annually the department shall call a joint meeting of the adjutant general, the department of veterans' affairs, and the superintendent of public instruction to discuss the provision of services to individuals with brain injury. State agencies and political subdivision agencies shall cooperate with the department to permit the department to efficiently coordinate services to individuals with brain injury while avoiding duplication of services."

Prevention and Identification

Section 50-06.4-05 directs DHHS to "provide outreach services and conduct public awareness efforts regarding the prevention and identification of brain injury."

Services and Support

Section 50-06.4-07 provides DHHS "shall contract with public or private entities for the provision of informal supports to individuals with brain injury. As used in this section, 'informal supports' includes information sharing and referral services, peer mentoring, training, facilitation of support groups, public awareness efforts, and individual and programmatic advocacy efforts."

Section 50-06.4-08 provides DHHS "shall provide or contract for the provision of social and recreational services, including day supports, to individuals with brain injury, if the department determines that available vocational rehabilitative services do not meet the individuals' needs."

Section 50-06.4-09 provides DHHS "shall provide or contract for the provision of increased and specialized vocational rehabilitation and consultation to individuals with brain injury who receive case management for personal care services. Services under this section include extended support for individuals at risk of losing their employment upon exhausting their vocational services."

BRAIN INJURY ADVISORY COUNCIL

Membership

Section 50-06.4-10, which was most recently amended by House Bill No. 1418 (2023), establishes the membership of the Brain Injury Advisory Council. The section provides:

1. The Governor is to appoint at least 8, but no more than 13, voting members which include:

- a. At least 2 brain injury survivors nominated by the council;
 - b. At least 2 family members of a brain injury survivor nominated by the council;
 - c. At least 1 service provider who provides services to brain injury survivors nominated by the council;
 - d. An individual nominated by the Indian Affairs Commission who may be a brain injury survivor or a family member of a brain injury survivor; and
 - e. At least 1 individual representing a religious, charitable, fraternal, civic, educational, legal, veteran, welfare, or professional group or organization, who may be a brain injury survivor or a family member of a brain injury survivor.
2. The Speaker of the House of Representatives shall appoint 1 member of the House of Representatives and the President Pro Tempore of the Senate shall appoint 1 member of the Senate to serve as members of the council.
 3. Each of the following entities shall appoint a representative to serve as a nonvoting member of the council who serves at the pleasure of the appointing entity:
 - a. The Protection and Advocacy Project, 1 representative;
 - b. DHHS, 1 individual representing injury prevention, 1 representative representing emergency medical services and trauma, 1 individual representing behavioral health, 1 individual representing Medicaid, 1 individual representing the adult and aging population, and 1 individual representing vocational rehabilitation; and
 - c. Department of Public Instruction, 1 representative.
 4. The Governor may appoint an individual representing stroke health and an individual representing a brain injury advocacy organization to serve as nonvoting members of the council who serve at the pleasure of the Governor.

Duties

The Brain Injury Advisory Council is to advise the department and shall participate in activities to improve the quality of life for an individual with brain injury and the individual's family through brain injury awareness, prevention, research, education, collaboration, support services, and advocacy. The department is to contract with a private, nonprofit agency that does not provide brain injury services to facilitate and provide support services to the council.

PREVIOUS STUDIES

2009-10 Long-Term Care Committee

The 2009-10 Long-Term Care Committee studied the impact of individuals with a traumatic brain injury (TBI) on the state's human services system. The committee received testimony from individuals affected by TBI and reviewed services provided. The committee also specifically received information from the Army National Guard regarding services available to veterans with TBI. Information was also received from the Department of Public Instruction regarding services available to students with TBI. The committee made no recommendations regarding the study.

2013-14 Human Services Committee

The 2013-14 Human Services Committee conducted a study of the need for a comprehensive system of care for individuals with a brain injury. The committee received input from other interested persons, including individuals with TBI, family members of individuals with TBI, service providers, county social services employees, and other advocates. The committee reviewed options to allow access to Medicaid for individuals with brain injury who are working. The committee also reviewed requirements for providers of employment-related services to register with the Department of Labor and Human Rights.

The committee recommended three bills to establish a TBI registry, to establish and administer a flex fund program for persons with TBI, and to exempt providers of prevocational services licensed or certified by DHHS from registering as an employment agency with the Department of Labor and Human Rights. The bill establishing a TBI registry was amended and passed to instead provide funding for resource coordination and the bill relating to provider exemptions was passed in its original form. The bill to establish a flex fund did not pass.

PROPOSED STUDY PLAN

The following is a proposed study plan for the committee's consideration:

1. Receive information from DHHS and other appropriate entities regarding care available for individuals with brain injury.
2. Receive information regarding gaps in services and options to address the gaps.
3. Receive comments by interested persons regarding the study of a comprehensive system of care for individuals with brain injury.
4. Develop recommendations and any bill drafts necessary to implement the recommendations.
5. Prepare a final report for submission to the Legislative Management.

ATTACH:1