

June 1997

STUDY OF BASIC CARE RATE EQUALIZATION - BACKGROUND MEMORANDUM

House Bill No. 1012 (1997), Section 32, provides for a Legislative Council study of basic care rate equalization. The study is to include the cost impacts to the state and private pay residents. Attached as an appendix is a copy of Section 32 of House Bill No. 1012.

PRIOR STUDIES

1993-94 Interim Budget Committee on Home and Community Care

House Bill No. 1002 (1993), Section 19, required the Department of Human Services to develop a ratesetting system for the rates for all basic care facility residents, including rate equalization provisions for private and public pay residents. The system was to be effective July 1, 1995. (Section 16 of 1995 Senate Bill No. 2012 extended the effective date from July 1, 1995, to July 1, 1997.) Section 20 of 1993 House Bill No. 1002 required the Department of Human Services to report to the Legislative Council or an interim committee of the Legislative Council on the development of the ratesetting system. The Budget Committee on Home and Community Care was assigned the responsibility of receiving these reports from the department.

The committee recommended and the 1995 Legislative Assembly subsequently passed House Bill No. 1030 which provided that the Department of Human Services basic care facility ratesetting system would apply only to facilities that receive payments from the state or any political subdivision. This change exempted facilities that only have private pay residents from the ratesetting requirements. In addition, the 1995 Legislative Assembly passed Senate Bill No. 2012, Section 16, which extended the deadline by which the Department of Human Services was to develop a basic care facility ratesetting methodology from July 1, 1995, to July 1, 1997.

1991-92 Interim Budget Committee on Long-Term Care

The 1991 Legislative Assembly passed Senate Concurrent Resolution No. 4057 which provided for a study of the feasibility and desirability of establishing a state basic care program, including defining the services to be provided and appropriate state, county, and federal financial responsibilities. The study was

assigned to the Budget Committee on Long-Term Care.

The committee recommended a bill, which failed to pass, that would have provided for a special supplemental grant for home maintenance service for vulnerable aged, blind, or disabled persons. The committee also recommended an expanded service payments for elderly and disabled (SPED) program and a state basic care program. The state basic care and expanded SPED program provisions passed by the 1993 Legislative Assembly are as follows:

1. Defined as an eligible beneficiary either an aged or disabled or blind person who was eligible to receive benefits under Title XIX of the Social Security Act or who was receiving benefits under Title XVI before January 1, 1995.
2. Provided that based on a functional assessment an eligible beneficiary had either health, welfare, or safety needs or was impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry.
3. The department was to supplement, within the limits of legislative appropriation, income of an eligible person receiving basic care services and issue payment to basic care facilities for services provided.
4. County agencies were to determine eligibility for benefits under the chapter and provide case management, conduct initial and ongoing functional assessments, and pay one-half of the costs of county administration.
5. Resident was defined as:
 - a. A person not living in an institution and living in the state with intent to remain in the state permanently;
 - b. A person living in an institution outside the state receiving a benefit under Chapter 50-01 as of January 1, 1995;
 - c. A person placed in an out-of-state institution by a county agency or department while the person was incapable of indicating intent; and
 - d. A person living in an in-state institution who had lived in that institution for at

least 30 days and had not been placed in that institution by another state.

The committee also recommended a bill, which passed, which changed the definition of a basic care facility to:

1. Provide that a basic care facility is a facility providing room or board to five or more individuals requiring health, social, or personal care services but not requiring regular 24-hour medical or nursing services;
2. Provide that services available at a basic care facility include leisure, recreational, and therapeutic activities, supervision of nutritional needs, and medication administration; and
3. Restrict admissions of residents to basic care facilities by providing that a basic care facility may admit and retain only an individual for whom the facility provides, either directly or through contract, appropriate services to meet the individual's highest practicable level of functioning.

LEGISLATION ACTED ON BY THE 1997 LEGISLATIVE ASSEMBLY

The 1997 Legislative Assembly passed the following legislation relating to the state's basic care program:

- House Bill No. 1012, Section 11, extends the date by which the Department of Human Services is to develop a basic care facility ratesetting methodology from July 1, 1997, to July 1, 1999.
- House Bill No. 1012, Section 12, provides that the Department of Human Services shall establish projects designed to meet the service needs of the Alzheimer's and related dementia population. The section also states that the projects established under this section must explore the financial and service viability of converting existing nursing facility or basic care capacity to a specific service environment that targets the Alzheimer's and related dementia population.
- House Bill No. 1012, Section 14, provides that the State Department of Health may not issue a license for any additional basic care bed capacity above the state's gross licensed capacity of 1,471 beds except when existing beds are converted for use by the Alzheimer's and related dementia population under the projects provided for in Section 50-06-14.4. The section also states that transfers of existing beds from one municipality to another municipality must be approved if the Department of Health licensing requirements are met during the period August 1, 1997, to

July 31, 1999, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred.

- House Bill No. 1012, Section 21, provides legislative intent that the Department of Human Services establish pilot projects for expanded long-term care case management to assist functionally impaired adults in accessing necessary services to maintain the appropriate level of independence in the least restrictive setting at the lowest possible cost and that the projects be financed within available department resources.
- House Bill No. 1012, Section 33, provides legislative intent that the rates set for basic care facilities during the 1997-99 biennium include an operating margin at a total cost of \$104,690. The section also states that the operating margin must be based on two percent of actual direct care costs and a limit rate set to produce such results.
- House Bill No. 1041 requires that counties, effective January 1, 1998, assume the financial responsibility for the cost of administering various economic assistance programs, one of which is the basic care program. In exchange, the bill requires the state to assume complete financial responsibility for the grant costs of medical assistance and basic care and contribute additional support of administrative costs for counties with Indian land.

The 1997 Legislative Assembly considered but did not pass House Bill No. 1037 which would have made permanent the moratorium on basic care and long-term care beds and would have established pilot projects to meet the service needs of the Alzheimer's and related dementia population. The provisions of House Bill No. 1037 were incorporated into House Bill No. 1012.

BASIC CARE FUNDING AND CASELOAD

The 1991 Legislative Assembly appropriated \$2,575,000 for state matching of county optional supplementation and general assistance payments during the 1991-93 biennium, including \$965,625 from the general fund and \$1,609,375 from the state aid distribution fund. The \$2,575,000 included \$1,780,000 for individuals in basic care facilities or 50 percent of the total estimated county costs of \$3,560,000.

The 1993 Legislative Assembly provided \$2,866,117 from the general fund for the state basic care program. This amount was estimated to be sufficient to continue the funding of the program at 50 percent state funds and 50 percent county funds

until January 1, 1995, at which time funding would go to 70 percent state funds and 30 percent county funds.

The following table shows the basic care funding by funding source for the 1995-97 and 1997-99 bienniums:

Source of Funds	1995-97 Biennium	1997-99 Biennium
State general fund	\$3,457,249	\$5,681,435
Other	112,509	52,716
County	1,449,972	429,905
Total	\$5,019,730	\$6,164,056

The following table shows the licensed beds, occupied beds, percentage of private pay residents, and the percentage of state pay residents by quarter for the period beginning April 1996 and ending March 1997:

	Licensed Beds	Occupied Beds	Private Pay	State Pay
April 1996 - June 1996	1,295	1,067	64%	36%
July 1996 - September 1996	1,306	1,078	62%	38%
October 1996 - December 1996	1,306	1,075	62%	38%
January 1997 - March 1997	1,275	1,061	64%	36%

BASIC CARE RATE EQUALIZATION STUDY PLAN

The following is a proposed study plan for the committee's responsibilities regarding the basic care rate equalization study:

1. Receive Department of Human Services reports on plans to develop a basic care facility ratesetting methodology. (North Dakota Century Code Section 50-06-14.3 provides that the Department of Human Services shall develop a ratesetting methodology that provides for rates for all residents of basic care facilities that receive payments from the state or any political subdivision. The methodology is to begin July 1, 1999.)
2. Receive testimony from representatives of basic care facilities and other interested organizations and individuals regarding the development of basic care ratesetting methodology.
3. Review the fiscal impact to the state and private pay residents of any new ratesetting methodology.
4. Provide recommendations to the Department of Human Services regarding its development of a basic care facility ratesetting methodology.
5. Provide recommendations to the Legislative Council and the 1999 Legislative Assembly regarding the Department of Human Services basic care ratesetting methodology and consider any legislation necessary to implement the proposed basic care facility ratesetting methodology.

ATTACH:1

SECTION 26. EFFECTIVE DATE - EXPIRATION DATE. Section 25 of this Act becomes effective on April 1, 1997, and is effective through June 30, 1999, and after that date is ineffective. Sections 14 and 15 are effective on August 1, 1997.

SECTION 27. REPEAL. If House Bill No. 1041 as enacted by the fifty-fifth legislative assembly becomes effective, section 15 of House Bill No. 1041 is repealed.

SECTION 28. DEPARTMENT OF HUMAN SERVICES REPORTS TO BUDGET SECTION - HUMAN SERVICE CENTER, STATE HOSPITAL, AND DEVELOPMENTAL CENTER BLOCK GRANT ACCOUNTABILITY. The department of human services shall report to the budget section of the legislative council by June 30, 1998, regarding human service center, state hospital, and developmental center block grant accountability including information regarding employee turnover and vacancies, human service center budget status and cash flow, clinical services including persons served, changes in client demand for services, waiting lists, impact on deinstitutionalization, and external purchase of services, regional needs assessment and planning, and development of an evaluation and outcome report.

SECTION 29. LEGISLATIVE INTENT - TRAUMATIC BRAIN INJURY PROGRAM ESTABLISHMENT - DEVELOPMENTAL CENTER. Notwithstanding section 15 of this Act, it is the intent of the legislative assembly that the developmental center be allowed to establish a traumatic brain injury program, subject to emergency commission and budget section approval, including up to twenty full-time equivalent employees, if the program can be established at the same or at a reduced cost and funded from other departmental and third-party resources.

SECTION 30. REPORTS TO BUDGET SECTION - WELFARE FRAUD - COST-EFFECTIVENESS. The department of human services shall periodically report to the budget section regarding the welfare fraud detection programs including reports on cost-effectiveness and avoidance, during the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 31. LEGISLATIVE COUNCIL STUDY - WELFARE REFORM IMPLEMENTATION - DEPARTMENT OF HUMAN SERVICES REPORTING. The legislative council shall consider studying the monitoring of North Dakota's welfare reform implementation efforts to determine the effectiveness of welfare reform during the 1997-98 interim. The department of human services and persons or parties conducting the review shall periodically report to the legislative council, or its designee, regarding the evaluation of welfare reform during the 1997-98 interim.

SECTION 32. LEGISLATIVE COUNCIL STUDY - BASIC CARE RATE EQUALIZATION. The legislative council shall consider studying basic care rate equalization, including the cost impacts to the state and private pay residents during the 1997-98 interim.

SECTION 33. LEGISLATIVE INTENT - OPERATING MARGIN - BASIC CARE RATES. It is the intent of the legislative assembly that the rates set for basic care facilities under subsection 3 of section 50-24.5-02 during the 1997-99 biennium include an operating margin at a total cost of \$104,690, or so much thereof as may be necessary, appropriated within subdivision 2 of section 1 of this Act. The operating margin must be based on two percent of actual direct care costs and a limit rate set to produce such results.

SECTION 34. LEGISLATIVE COUNCIL STUDY - HUMAN SERVICE CENTER BLOCK GRANTS. If the legislative council studies the department of human services pursuant to Senate Concurrent Resolution No. 3042, approved by the fifty-fifth legislative assembly, during the 1997-98 interim, the study should review the block grant method of appropriating funds to regional human service centers, including incentives, accountability, and budgeting processes.

SECTION 35. LEGISLATIVE INTENT - CHILD SUPPORT EMPLOYEES. It is the intent of the legislative assembly that the eleven full-time equivalent child support positions added by the fifty-fifth legislative assembly for the department of human services are authorized only for the biennium beginning July 1, 1997, and ending June 30, 1999, and that if the department requests the full-time equivalent authorization and related funding for any of these positions for the 1999-2001 biennium, the request must be specifically identified as a budget change in the department's 1999-2001 biennium budget request.