

COORDINATION OF BENEFITS FOR CHILDREN WITH SPECIAL NEEDS - BACKGROUND MEMORANDUM

Senate Bill No. 2330 (attached as an appendix) provides for a Legislative Council study of the coordination of insurance and other benefits for children with special needs. The study is to:

- Include the coordination of benefits provided by the Department of Public Instruction, the Department of Human Services, and private insurance companies.
- Consider optimizing and coordinating resources and expanding services, including augmentative communication devices and therapy services.
- Include reports from the task force established by Blue Cross Blue Shield of North Dakota relating to the coordination of services and benefits for children with special needs.

PRIOR LEGISLATIVE STUDIES 1985-86 Education Committee

The Education Committee received a report during the 1985-86 interim regarding various interagency agreements for the provision of services to persons with special needs. Interagency agreements reviewed by the committee were entered into by the following agencies:

- The State Board for Vocational and Technical Education, the Department of Public Instruction, and the Department of Human Services.
- The Department of Public Instruction and the Department of Human Services.
- The Department of Human Services, State Department of Health, and Department of Public Instruction.

1987-88 Budget Committee on Institutional Services

Pursuant to House Concurrent Resolution Nos. 3073 and 3074, the 1987-88 interim Budget Committee on Institutional Services conducted a study of the services available to the deaf and hearing impaired and the blind and visually impaired, including an examination of the role of the School for the Deaf and the School for the Blind in the provision of educational and rehabilitative services. As a result of the study, the committee recommended the following policies regarding the role of the School for the Deaf and School for the Blind in providing educational and rehabilitative services to the state's hearing and visually impaired. The policies provide that the schools should:

1. Educate students with multiple or severe impairments if the services are not available locally.
2. Continue to educate students with other than multiple or severe impairments if the services are not available locally.
3. Enhance state resource and reference centers for the hearing and visually impaired to assist local school districts and the state's hearing and visually impaired adults.
4. Develop short-term and special topic courses for students educated in local school districts who need intensive training in a specific area.
5. Expand services to provide for the educational needs of some hearing and visually impaired students currently educated out of state.
6. Encourage local school districts to establish services for the hearing and visually impaired.

1987-88 Education Committee

During the 1987-88 interim, the Education Committee reviewed interagency agreements relating to the provision of services to individuals with special needs. Interagency agreements reviewed by the committee included the following agencies:

- The Department of Public Instruction and the Director of Institutions' office.
- The Department of Human Services and the Department of Public Instruction.
- The Department of Public Instruction, the State Board for Vocational and Technical Education, the Department of Human Services, and Job Service North Dakota.

1989-90 Education Finance Committee

The 1989-90 interim Education Finance Committee received various reports regarding interagency agreements relating to the provision of services to individuals with special needs. Interagency agreements reviewed by the committee included the following agencies:

- The Department of Public Instruction and the Director of Institutions' office.
- The Department of Public Instruction, the State Board for Vocational and Technical Education, Department of Human Services, and Job Service North Dakota.
- The Department of Human Services, State Department of Health, and the Department of Public Instruction.

1991-92 Special Education Committee

Pursuant to 1991 House Concurrent Resolution No. 3039 and Senate Concurrent Resolution No. 4034, the 1991-92 Special Education Committee conducted a study of special education services. One area of special education considered by the committee was services provided to students with specialized health care needs. The committee learned that children who are medically fragile or technology dependent constitute approximately 1.2 percent of all special education students. The committee considered the difficulty faced by school districts in determining the appropriateness and feasibility of providing medical services in a school setting to allow special needs students to participate in public school. The committee recommended 1993 House Concurrent Resolution No. 3005 to provide for a study of the delivery of services to special needs children from a multiagency perspective and to consider whether services might be enhanced and efficiency improved through better cooperation or the consolidation of administrative functions. The study was not prioritized by the Legislative Council for study during the 1993-94 interim.

1993-94 Education Services Committee

Pursuant to 1993 Senate Concurrent Resolution No. 4050, the 1993-94 interim Education Services Committee conducted a study of the placement of developmentally disabled students in regular classrooms and teacher training curricula designed to assist teachers in accepting and teaching students with mental retardation and other developmental disabilities. Among the bills recommended by the committee was House Bill No. 1047, which provided legislative intent that all children with disabilities have the right to a free appropriate public education, including the right to special education and related services which must be provided at public expense, under public supervision and direction, and at no cost to parents.

RELATED 2001 LEGISLATION

Senate Bill No. 2331, which failed to pass, would have required an insurance company to provide coverage for medically necessary therapy, including physical, occupational, speech, or language therapy and equipment, as prescribed by a licensed medical physician for any child under age 22.

RELATED NORTH DAKOTA CENTURY CODE SECTIONS

15.1-32-01 - Definitions. This section provides the following definitions for use in North Dakota Century Code (NDCC) Chapter 15.1-32, which relates to special education:

- **Related services** - Transportation and developmental and corrective or supportive services required to assist a student with disabilities to benefit from special education.
- **Special education** - Instruction designed to meet the needs of a student with disabilities, transportation, and corrective and supporting services required to assist a student with disabilities in taking advantage of, or responding to, educational programs and opportunities.
- **Student with disabilities** - An individual who is at least 3 years of age but who has not reached age 21 and who because of mental, physical, emotional, or learning characteristics requires regular or special education and related services designed to meet the individual's educational needs. The term includes an individual who is mentally retarded, hearing impaired, deaf, deaf-blind, speech or language impaired, visually impaired, emotionally disturbed, orthopedically impaired, or autistic, and an individual who has a specific learning disability, a traumatic brain injury, or other health impairment.

15.1-32-02 - Coordination of special education policies and programs. This section directs the Superintendent of Public Instruction to establish general state policy regarding special education and endeavor to ensure a cooperative special education program coordinating all available services. The superintendent shall cooperate with private agencies and solicit their advice and cooperation in the establishment of policy and in the coordination and development of special education programs.

15.1-32-03 - Interagency cooperative agreements - Development and implementation. This section directs the Superintendent of Public Instruction to develop and implement interagency agreements with the Department of Corrections and Rehabilitation, the Department of Human Services, the State Department of Health, and other public and private entities to maximize the state resources available for fulfilling educationally related service requirements.

15.1-32-05 - Special education - Cooperation among agencies. This section provides that the Superintendent of Public Instruction, the State Department of Health, and the Department of Human Services shall cooperate in planning and coordinating early intervention programs for individuals under age 3.

15.1-32-13 - Related services - Insurance options - School district responsibility. This section provides that each school district shall require that all family insurance options be exhausted in paying the costs of determining a student's medically related disability and in paying for the provision of related services to the student, provided there is no financial loss to the student or the student's parent. The school district is responsible for all costs not covered by the family's insurance.

50-06-01.4 - Structure of the department. This section provides that the executive director of the Department of Human Services shall consult with and maintain a close working relationship with:

- The State Department of Health.
- The Department of Corrections and Rehabilitation, the School for the Blind, and the School for the Deaf to develop programs for developmentally disabled persons.
- The Department of Public Instruction to maximize the use of resource persons in regional human service centers in the provision of special education services.

COOPERATIVE AGREEMENTS

Pursuant to NDCC Section 15.1-32-03, the Department of Public Instruction has entered into cooperative agreements with various state agencies, including the following:

1. **Cooperative agreement between the Department of Human Services and the Department of Public Instruction** - Entered into on April 23, 2001, the purpose of this agreement is to establish more clearly the relationship among the party agencies through agreement on the coordination of roles, designation of liaison representatives, planning for joint staff training and conferences, evaluation of working relationships, and identification and definition of services for which claim may be made for reimbursement under state and federally funded programs.
2. **Memorandum of understanding concerning cooperation and collaboration in providing services to students with disabilities aged 14 to 21** - The purpose of this memorandum of understanding, which covers the period July 1, 2001, through June 30, 2002, is to identify a collaborative approach to services provided to students with disabilities aged 14 to 21 in North Dakota. The agencies involved are the Department of Human Services, the Department of Public Instruction, Job Service North Dakota, and the State Board for Vocational and Technical Education. The memorandum indicates that the agencies involved have identified areas of cooperation in facilitating coordinated services, maximizing available

resources, and avoiding duplication of services. The areas of cooperation listed in the memorandum are:

- a. Communication.
- b. Outreach and referral.
- c. Evaluation.
- d. Individual program planning.
- e. Transition.
- f. Family involvement.
- g. Professional development.
- h. Shared resources.
- i. Fiscal and administrative considerations.
- j. To assure students are served within natural or least-restrictive environments.
- k. Confidentiality of information.
- l. Technical assistance and training.

BLUE CROSS BLUE SHIELD TASK FORCE

Blue Cross Blue Shield of North Dakota has formed a task force to evaluate benefits for children with special needs and to improve collaboration among parents, providers, and insurers regarding the care of children with special needs. The task force, which has held monthly meetings since January 2001, consists of representatives of the Department of Public Instruction, the Department of Human Services, and Blue Cross Blue Shield of North Dakota; physical, occupational, and speech therapists; and parents of children with special needs.

At the task force's January 2001 meeting, four areas of focus were identified:

1. The review process used by Blue Cross Blue Shield of North Dakota and the medical documentation required for the continuation of therapy and other benefits for children with special needs.
2. The definition of "medical services," "educational services," and "maintenance care" to determine what services are the responsibility of the school district and what services are the responsibility of Blue Cross Blue Shield of North Dakota.
3. The types of therapy and other benefits that should be covered by insurance.
4. The improvement of communication and collaboration between all parties involved in the delivery of services to children with special needs.

The work of the task force has resulted in two changes to benefits offered by Blue Cross Blue Shield of North Dakota:

1. The addition of a habilitative therapy benefit. The habilitative therapy benefit implemented by Blue Cross Blue Shield of North Dakota will allow for 90 visits per benefit period per discipline. Blue Cross Blue Shield requires that an individual medical plan be submitted

every six months to provide a report on the patient's progress and the short-term and long-term habilitative goals.

2. The removal of the benefit exclusion for augmentative communication devices. A new task force has been formed to evaluate current mechanisms and to develop a collaborative process for the purchase and lending of augmentative communication devices.

One issue identified by the task force as being unresolved is the legality of sharing information between private therapists, school therapists, and third-party payers.

PROPOSED STUDY PLAN

The following is a study plan the committee may want to consider in its study of the coordination of benefits for children with special needs:

1. Receive information from the following regarding current efforts to coordinate benefits for children with special needs:
 - a. The Department of Public Instruction.
 - b. The Department of Human Services.

- c. Blue Cross Blue Shield of North Dakota.
 - d. State Department of Health.
2. Receive information from state agencies regarding interagency cooperative agreements currently entered into or under consideration for the coordination of benefits and services to children with special needs.
3. Receive information from Blue Cross Blue Shield of North Dakota regarding the work of the task forces on the coordination of services and benefits for children with special needs and augmentative communication devices.
4. Receive information from other interested organizations, entities, and individuals regarding the coordination of services and benefits for children with special needs.
5. Develop recommendations and any related bill drafts regarding the coordination of benefits for children with special needs.
6. Prepare a final report to the Legislative Council.

ATTACH:1

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2330
(Senators T. Mathern, Thane)
(Representative Fairfield)

AN ACT to provide for a legislative council study relating to insurance coverage for augmentative communication devices and services for children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2001-2002 interim, the coordination of benefits for children with special needs under the age of twenty-one among the department of public instruction, the department of human services, and private insurance companies, with the purpose of optimizing and coordinating resources and expanding services including augmentative communication devices and therapy services. The study, if conducted, must include reports from any private insurance company's task force concerning the coordination of these services. If the study is conducted, the legislative council shall report its findings and recommendations, together with any legislation required to implement its recommendations, to the fifty-eighth legislative assembly.