

MEDICAL ASSISTANCE PROGRAM ADVISORY COUNCIL STUDY

The 2003 Legislative Assembly approved Senate Bill No. 2012, attached as Appendix A. Section 16 of the bill provides for a Legislative Council study of the feasibility and desirability of establishing an advisory council for the medical assistance (Medicaid) program of the Department of Human Services. The Budget Committee on Health Care has been assigned this responsibility for the 2003-04 interim.

MEDICAL ASSISTANCE PROGRAM - BACKGROUND

The North Dakota medical assistance program was authorized in 1966, pursuant to North Dakota Century Code (NDCC) Section 50-24.1-01, for the purpose of strengthening and extending the provisions of medical care and services to people whose resources are insufficient to meet such costs. The program is to provide preventive, rehabilitative, and other services to help families and individuals to retain or attain capability for independence or self-care.

The total 2003-05 biennium appropriation for medical assistance programs, including prescription drugs, developmental disability services, nursing facilities, Healthy Steps, and other medical assistance programs is \$878,264,106, \$261,999,401 of which is from the general fund. In comparison, the 2001-03

biennium original appropriation for medical assistance programs was \$796,125,334, \$218,983,343 of which is from the general fund. The 2003-05 Medicaid budget reflects the federal medical assistance percentage (FMAP) for North Dakota of 68.36 percent in federal fiscal year 2003, a 68.31 percent in federal fiscal year 2004, and a projected 67.47 percent in federal fiscal year 2005.

The federal Jobs and Growth Tax Relief Reconciliation Act passed by Congress in May 2003 provides a total of \$10 billion to states for increased federal medical assistance percentages under the Medicaid program for the period April 1, 2003, through June 30, 2004. The Department of Human Services estimates North Dakota's share to be \$19.6 million. The Act provides a "hold harmless" provision for the state's federal medical assistance percentage and an enhanced federal medical assistance percentage. The hold harmless provisions and the enhanced federal medical assistance percentage rates are effective for the third and fourth quarters of federal fiscal year 2003 (April through September 2003) and for the first three quarters of federal fiscal year 2004 (October 2003 through June 2004). The chart below presents the changes that will be made to North Dakota's federal medical assistance percentage as a result of provisions of the Act.

North Dakota's Federal Medical Assistance Percentage				
Federal Fiscal Year	Percentage Prior to New Federal Act	Adjustments		Percentage Under New Federal Act
		Hold Harmless Provision	Enhancement	
2001	69.99%			69.99%
2002	69.87%			69.87%
2003				
Quarter ending 12/31/02	68.36%			68.36%
Quarter ending 3/31/03	68.36%			68.36%
Quarter ending 6/30/03	68.36%	1.51	2.95	72.82%
Quarter ending 9/30/03	68.36%	1.51	2.95	72.82%
2004				
Quarter ending 12/31/03	68.31%	0.05	2.95	71.31%
Quarter ending 3/31/04	68.31%	0.05	2.95	71.31%
Quarter ending 6/30/04	68.31%	0.05	2.95	71.31%
Quarter ending 9/30/04	68.31%			68.31%
2005				
Preliminary projection	67.22%			67.22%

The Department of Human Services anticipates beginning to receive the enhanced federal medical assistance percentage reimbursement in July 2003 and will continue to receive the enhanced reimbursement through June 2004, as Medicaid claims are processed. Therefore, the entire \$19.6 million will be received in the 2003-05 biennium. The Department of Human Services reported to the Budget Section on June 24, 2003, that it plans to use \$8 million of these savings to support Medicaid benefits that would otherwise have been eliminated. If services are held at the current level and clients and costs do not increase, \$9 million could be available for the 2005-07 biennium.

MEDICAL CARE ADVISORY COMMITTEE

Pursuant to Title 42, Section 431.12 of the Code of Federal Regulations, the Department of Human Services is required to have a Medical Care Advisory Committee for the purpose of advising the department about health and medical services, including participating in policy development and program administration. The committee is to consist of physicians and other representatives of the health profession who are familiar with the medical needs of the low-income population and the resources available and required for their care; members of consumers' groups, including Medicaid recipients, and consumer organizations such as labor unions and cooperatives; and the director of the State Department of Health (State Health Officer). North Dakota currently does have a Medical Care Advisory Committee, and attached as Appendix B is a list of the members of that committee.

OTHER DEPARTMENT OF HUMAN SERVICES ADVISORY COUNCILS AND BOARDS

- **Drug Utilization Review Board** - The state is required under Section 1927(g)(3) of the Social Security Act to maintain a Drug Utilization Review Board. The board meets quarterly to provide recommendations to the Department of Human Services regarding Medicaid pharmacy services. The Drug Utilization Review Board consists of four physicians, four pharmacists, and three Department of Human Services employees.
- **Drug Use Review Board** - House Bill No. 1430 (2003) requires the Department of Human Services to establish a Drug Use Review Board. The board is responsible for establishing a Medicaid drug use review program, including determining whether use of a particular drug is medically appropriate, medically necessary, and will not result in adverse medical outcomes. The Drug Use Review Board consists of the pharmacy administrator of the Department of Human

Services, the medical consultant to the Department of Human Services, six physicians, six pharmacists, and one pharmacist or physician representing the pharmaceutical industry.

- **Regional Human Service Council** - Each regional human service center is directed, pursuant to NDCC Sections 50-06-05.3 and 50-06-05.4, to establish a Human Service Council. The council may consist of up to 13 members, appointed by the boards of county commissioners of the respective counties within the region in cooperation with the director of the regional human service center. Members of the council are to be selected on the basis of the population of residents in each county served by the center, with terms of two years for each member. Each county must have at least one representative on the council.

The duties of the regional Human Service Council include:

Assisting in needs assessment and the planning and development of health and social resources to assure effective and efficient delivery of services.

Reviewing and evaluating services and programs provided by the centers and make periodic reports to the Department of Human Services together with any recommendations the council may have for improvement in services, programs, or facilities.

Promoting cooperation and working agreements with private human service agencies.

Reviewing the budgets for submission to the Department of Human Services.

Promoting local and regional financing from public and private sources.

- **Previous Human Services Advisory Board** - From 1989 through 1995 North Dakota had a Human Services Advisory Board. The 1989 Legislative Assembly approved Senate Bill No. 2291, creating NDCC Section 50-06-01.6 which provided for a Human Services Advisory Board. The board consisted of the Governor, or the Governor's designee, who acted as the president of the board, and nine members appointed by the Governor. The board's responsibilities included recommending and reviewing policies for the Department of Human Services and advising the department's executive director with respect to other issues and concerns. The board was to meet quarterly and at other times determined necessary by the executive director, the president, or a majority of the board members. Section 6

of 1995 House Bill No. 1074 repealed Section 50-01-01.6.

- **Previous Social Service Board** - From 1935 to 1981 North Dakota had a Public Welfare or Social Service Board. The Public Welfare Board of North Dakota was created in 1935 to administer, allocate, and distribute any available federal and state funds for relief for the destitute, old-age assistance, mother's aid, maternal and child health, care of crippled children, aid to dependent children, child welfare service, and public health service. House Bill No. 1058 (1975) renamed the Public Welfare Board the Social Service Board. The Social Service Board consisted of seven members appointed by the Governor, with the consent of the Senate. Each term was for a six-year period, with each individual limited to two 6-year terms. The board was required to meet at least quarterly and whenever called in session by the president of the board or a majority of the board members. The powers and duties of the board included acting as the official agency of the state in any social welfare activity initiated by the federal government not otherwise by law made the responsibility of another state agency.

The Social Service Board, as referenced in NDCC Section 50-06-02, was repealed pursuant to Section 37 of 1981 House Bill No. 1481, which was the same bill that created the Department of Human Services. The Department of Human Services assumed the

functions, powers, and duties of the Social Service Board, the Governor's Council on Human Resources, the Mental Health and Retardation Division of the State Department of Health, the Division of Alcoholism and Drug Abuse of the State Department of Health, and the State Council on Developmental Disabilities.

PROPOSED STUDY PLAN

1. Receive testimony from the Department of Human Services regarding the effectiveness of the current Medical Care Advisory Committee and its responsibilities in assisting the Department of Human Services with the medical assistance program.
2. Receive testimony from a representative of the Medical Care Advisory Committee regarding the member selection process, duties and responsibilities of the committee, how often the committee meets, and potential areas for improvement of the committee.
3. Receive testimony from other interested parties regarding the Department of Human Services' advisory committee for the medical assistance program.
4. Develop committee recommendations and any related bill drafts regarding the Medical Assistance Advisory Committee.
5. Prepare a final report for submission to the Legislative Council.

ATTACH:2

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2012
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of human services; to provide for the transfer of appropriation authority between agencies and institutions; to provide an exception; to provide for legislative council studies; to provide statements of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of human services and its various divisions, for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

Subdivision 1.

ADMINISTRATION - SUPPORT

Salaries and wages	\$11,016,285
Operating expenses	33,567,188
Capital assets	2,694
Developmentally disabled facility loan fund	<u>3,261,556</u>
Total all funds	\$47,847,723
Less estimated income	<u>34,130,107</u>
Total general fund appropriation	\$13,717,616

Subdivision 2.

PROGRAM/POLICY MANAGEMENT

Salaries and wages	\$22,053,781
Operating expenses	37,381,409
Capital assets	39,672
Grants	288,837,725
Grants - Medical assistance	<u>918,049,664</u>
Total all funds	\$1,266,362,251
Less estimated income	<u>956,761,496</u>
Total general fund appropriation	\$309,600,755

Subdivision 3.

MENTAL HEALTH COMMUNITY SERVICES CONTINGENCY

Total general fund appropriation	\$250,000
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NORTHWEST HUMAN SERVICE CENTER

Total all funds	\$7,275,679
Less estimated income	<u>3,645,640</u>
Total general fund appropriation	\$3,630,039

NORTH CENTRAL HUMAN SERVICE CENTER

Total all funds	\$14,564,870
Less estimated income	<u>6,723,674</u>
Total general fund appropriation	\$7,841,196

	LAKE REGION HUMAN SERVICE CENTER	
Total all funds		\$8,420,933
Less estimated income		<u>3,782,973</u>
Total general fund appropriation		\$4,637,960
	NORTHEAST HUMAN SERVICE CENTER	
Total all funds		\$19,441,183
Less estimated income		<u>11,444,820</u>
Total general fund appropriation		\$7,996,363
	SOUTHEAST HUMAN SERVICE CENTER	
Total all funds		\$20,724,542
Less estimated income		<u>11,215,222</u>
Total general fund appropriation		\$9,509,320
	SOUTH CENTRAL HUMAN SERVICE CENTER	
Total all funds		\$11,358,975
Less estimated income		<u>5,731,868</u>
Total general fund appropriation		\$5,627,107
	WEST CENTRAL HUMAN SERVICE CENTER	
Total all funds		\$17,584,844
Less estimated income		<u>9,121,635</u>
Total general fund appropriation		\$8,463,209
	BADLANDS HUMAN SERVICE CENTER	
Total all funds		\$8,924,627
Less estimated income		<u>4,558,723</u>
Total general fund appropriation		\$4,365,904
	STATE HOSPITAL	
Total all funds		\$41,889,561
Less estimated income		<u>16,405,360</u>
Total general fund appropriation		\$25,484,201
	DEVELOPMENTAL CENTER	
Total all funds		\$40,761,057
Less estimated income		<u>31,949,828</u>
Total general fund appropriation		\$8,811,229
Total all funds - Subdivision 3		\$191,196,271
Total estimated income - Subdivision 3		\$104,579,743
Total general fund appropriation - Subdivision 3		\$86,616,528
Grand total general fund appropriation S.B. 2012		\$410,984,899
Grand total special funds appropriation S.B. 2012		\$1,097,596,346
Grand total all funds appropriation S.B. 2012		\$1,508,581,245

SECTION 2. APPROPRIATION - HEALTH CENTER GRANTS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to community entities to support community development and grant writing services for the purpose of health center grant application submission, for the biennium beginning July 1, 2003, and ending June 30, 2005. The department may not award an individual grant of more than \$10,000.

SECTION 3. APPROPRIATION - LEGISLATIVE INTENT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, and from federal funds, the sum of \$2,125,000 to the

department of human services for the purpose of supplementing other appropriations provided for the medical assistance program, the developmental center, the state hospital, and home and community-based services programs for the biennium beginning July 1, 2003, and ending June 30, 2005. It is the intent of the legislative assembly that whenever possible, the department use the general fund moneys appropriated under this section to maximize federal funding for these programs and functions.

SECTION 4. LEGISLATIVE INTENT - DEVILS LAKE CHILD SUPPORT ENFORCEMENT UNIT. It is the intent of the legislative assembly that the fifty-ninth legislative assembly consider removing general fund support for the Devils Lake child support enforcement unit reservation project if the project's performance results do not improve during the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 5. LANDS AND MINERALS TRUST FUND. The sum of \$3,261,556, or so much of the sum as may be necessary, included in the developmentally disabled facility loan fund line item in subdivision 1 of section 1 of this Act, may be expended by the department of human services from the lands and minerals trust fund for the purpose of making payments of principal and interest to the common schools trust fund on any loans made from it pursuant to the developmentally disabled loan fund program nos. 2 and 3, for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 6. HEALTH CARE TRUST FUND - TRANSFER TO GENERAL FUND. The office of management and budget shall transfer \$35,911,035 from the health care trust fund to the general fund during the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 7. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION. Notwithstanding section 54-16-04, the department of human services may transfer appropriation authority between line items within each subdivision of section 1 of this Act, and between subdivisions within section 1 of this Act for the biennium beginning July 1, 2003, and ending June 30, 2005. The department shall notify the office of management and budget of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2004, any transfers made in excess of \$50,000 and to the appropriations committees of the fifty-ninth legislative assembly regarding any transfers made pursuant to this section.

SECTION 8. FEDERAL TANF BLOCK GRANT PROGRAMS - EXPENDITURE LIMIT. The department of human services shall make the changes necessary to programs utilizing funding from the temporary assistance for needy families (TANF) block grant to provide that by the end of the 2003-05 biennium, the cumulative funding anticipated to be spent for these programs for each fiscal year does not exceed North Dakota's annual federal TANF block grant allocation, including any incentive or bonus grants awarded to North Dakota.

SECTION 9. MEDICAL SERVICES - COPAYMENTS AND SERVICE LIMITS. The department of human services shall establish a six dollar copayment for medical assistance recipients for each emergency room visit that is not designated an emergency service by the medical services provider. The department of human services shall establish other service copayments or limits and make other programmatic changes within the medical services program to operate the program within the funding levels approved by the fifty-eighth legislative assembly for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 10. NURSING HOME RATES - EXCEPTION - DIRECT CARE LIMIT. Notwithstanding subsection 4 of section 50-24.4-10, the department of human services shall establish an eighty-five dollar per diem limit, adjusted for inflation under subsection 5 of section 50-24.4-10, on allowable operating costs for direct care services of nursing facilities for purposes of determining nursing facility payment rates for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 11. SUPPORTED LIVING ARRANGEMENTS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES - LOCAL MATCHING FUNDS - FUNDING ALLOCATION. The grants - medical assistance line item in subdivision 2 of section 1 of this Act includes \$200,000 from the general fund for supported living arrangement services for individuals with developmental disabilities.

This funding may be spent only if local or private funding is provided for these services on a dollar-for-dollar matching fund basis. The department shall allocate the funding appropriated for this purpose proportionately to each human service region of the state based on the number of individuals with developmental disabilities seeking supported living arrangement services in each region for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 12. LEGISLATIVE INTENT - VOCATIONAL REHABILITATION - SURVEY TIME PERIOD. It is the intent of the legislative assembly that the department of human services only survey vocational rehabilitation clients who become employed regarding job retention and job satisfaction after three months of employment if allowed under federal regulations for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 13. COMPULSIVE GAMBLING TREATMENT SERVICES - LIMITATION. Notwithstanding section 1 of House Bill No. 1243, as approved by the fifty-eighth legislative assembly, the department of human services may not spend in excess of \$400,000 for compulsive gambling treatment services for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 14. LEGISLATIVE COUNCIL STUDY - HUMAN SERVICES ADMINISTRATIVE COSTS. The legislative council shall consider studying, during the 2003-04 interim, administrative costs of human service programs, including costs incurred by the central office of the department of human services, human service centers, and county social services. If studied, the legislative council shall review the effects of the 1997 "swap" legislation on state and county human service program costs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 15. LEGISLATIVE COUNCIL STUDY - CHILDREN WITH SPECIAL HEALTH NEEDS. The legislative council shall consider studying, during the 2003-04 interim, programs providing services to children with special health care needs in North Dakota and service needs of these children which are not available under current programs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 16. LEGISLATIVE COUNCIL STUDY - MEDICAID ADVISORY COUNCIL. The legislative council shall consider studying, during the 2003-04 interim, the feasibility and desirability of establishing an advisory council for the medical assistance program of the department of human services. If studied, the legislative council shall consider including representatives of private health care providers on the advisory council. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 17. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE CONTINUUM. The legislative council shall consider studying, during the 2003-04 interim, North Dakota's long-term care continuum of services, including service delivery methods and payment systems. If studied, the legislative council shall consider the cost-effectiveness of the programs and the appropriateness of rate structures and the nursing home equalized rate policy. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 18. EMERGENCY. The total all funds line item for the state hospital in subdivision 3 of section 1 of this Act includes \$400,000 from special funds for capital construction projects, and the appropriation of that amount is declared to be an emergency measure.

APPENDIX B

June 18, 2003

MEDICAL CARE ADVISORY COMMITTEE MEMBERSHIP

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