

## **INCENTIVE PACKAGE TO FACILITATE REDUCING LONG-TERM CARE BED CAPACITY AND PROVIDING ALTERNATIVE LONG-TERM CARE SERVICES - BACKGROUND MEMORANDUM**

Senate Concurrent Resolution No. 4004 (attached as Appendix A) provides for a Legislative Council study of the possibility of creating an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services. The resolution cites as reasons for the study:

1. North Dakota has 75.05 nursing facility beds per 1,000 elderly (age 65 and over) while the national average is fewer than 50.
2. North Dakota institutionalizes approximately 10.3 percent of its elderly population, the highest percentage in the United States.
3. The closure of a facility in a rural community can have a significant impact on the entire community, similar to the loss of other local businesses, schools, or hospitals.
4. Assistance may be needed for communities when a facility chooses to close or reduce bed capacity.
5. Assistance and other incentives should be made available to enable facilities to make the transition toward closing or providing alternative long-term care services.

### **PRIOR STUDIES**

#### **1997-98 Budget Committee on Long-Term Care**

During the 1997-98 interim, the Legislative Council's Budget Committee on Long-Term Care studied a wide range of long-term care issues including basic care rate equalization, Alzheimer's and related dementia population projects, American Indian long-term care needs, long-term care financing issues, and home and community-based services availability. The committee recommended bills providing for:

- The repeal of basic care rate equalization (SB 2033).
- The Department of Human Services to continue the Alzheimer's and related dementia population pilot projects (SB 2034).
- A Legislative Council study of the expansion of psychiatric and geropsychiatric training at the University of North Dakota School of Medicine and Health Sciences (HCR 3001).
- An exception to the case mix system to allow for the establishment of a 14-bed geropsychiatric nursing unit within an existing nursing facility (SB 2035).

- A Legislative Council study of American Indian long-term care and case management needs (HCR 3002).
- A Legislative Council study of an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services (SCR 4004).
- A Legislative Council study to determine if the mill levy match program could be expanded to enhance home and community-based service availability (HCR 3003).
- The repeal of basic care and assisted living and the creation of an adult residential care facility classification effective July 1, 2001 (SB 2036).
- The implementation of a targeted case management program (SB 2037).
- The continuation of the moratorium on nursing facility and basic care beds through the 1999-2001 biennium and an exception to the basic care bed moratorium for the establishment of a traumatic brain-injured facility in western North Dakota (SB 2038).
- A Legislative Council study of the swing-bed process (HCR 3004).

#### **1995-96 Interim Budget Committee on Home and Community Care**

During the 1995-96 interim, the Legislative Council's Budget Committee on Home and Community Care studied the use of the state's resources and services in addressing the needs of the elderly residents. As a part of the study, the committee received the report of the Task Force on Long-Term Care planning. Based on that report and the committee's study, it recommended House Concurrent Resolution No. 3004 and House Bill No. 1039 relating to the expansion of home and community-based service availability.

### **TASK FORCE ON LONG-TERM CARE PLANNING**

The 1997-98 Budget Committee on Long-Term Care received the report of the Task Force on Long-Term Care planning. The task force report concluded that the current payment system lacks the incentives needed to encourage providers to deliver alternative services or to reduce licensed capacity. The task force also concluded that changes are needed to the

current ratesetting structure. The changes should provide additional revenues to some facilities, which would enable those facilities to offer additional services and develop alternative services. The task force recommended the creation of an incentive and disincentive for facilities with high or low case mixes. Facilities with a high case mix average (1.6199) would have their rates calculated using direct care and other direct care limits increased by 2.5 percent. Facilities with a low case mix average (1.4244) would have their rates calculated using direct care and other direct care limits decreased by 2.5 percent. The impact of this recommendation would have been an estimated cost savings of \$50,000 per biennium, \$35,000 of which would have been federal funds and \$15,000 of which would have been state funds. The Budget Committee on Long-Term Care did not accept the task force recommendation to increase limit rates by 2.5 percent for nursing facilities with high case mix averages and decrease limit rates by 2.5 percent for facilities with low case mix averages.

The task force also concluded that providing an exception to the 90 percent occupancy limit would encourage facilities to delicense beds when a decreased occupancy is sustained, as compared to the current system that promotes admitting residents so that rates will not be adversely impacted by the 90 percent occupancy limitation. The task force recommended waiving the 90 percent occupancy limitation for facilities delicensing beds before the beginning of or during a rate year in which the limitation would apply. The Budget Committee on Long-Term Care accepted the task force recommendation to waive the 90 percent occupancy limitation for facilities delicensing beds before the beginning of or during a rate year in which the limitation would apply.

The task force concluded that short-term stays generate higher per day costs than long-term stays. Because of this, the task force recommended an incentive for facilities with low annual average lengths of stay. The incentive would provide facilities with an increase in their daily rate for direct care, other direct care, and indirect care, subject to limitations. The incentive would be one percent for facilities with an average length of stay under 201 days, two percent for facilities with an average length of stay under 181 days, and three percent for facilities with an average length of stay under 161 days. It was anticipated that this incentive would encourage facilities to consider alternatives to nursing facility care upon initial admission, as well as encourage facilities to provide necessary short-term care and then discharge individuals to appropriate alternative settings. The Budget Committee on Long-Term Care accepted the recommendation to provide incentives of up to three percent of direct care, other direct care, and indirect care rates (subject to limits) for facilities with an annual average length of stay of 200 or fewer days per occupied bed.

## LEGISLATION ACTED ON BY THE 1999 LEGISLATIVE ASSEMBLY

The 1999 Legislative Assembly passed Senate Bill No. 2168 which establishes a North Dakota health care trust fund to be used for making grants or loans to organizations for providing alternative nursing facility care. Moneys are generated to this fund as a result of the Department of Human Services making government nursing facility funding pool payments to the two governmental nursing facilities in the state--one located at McVille and the other at Dunseith. These payments are made based on the average cost of Medicaid rates as compared to Medicare rates for all nursing care facilities in the state multiplied by the total of all resident days of all nursing homes for Medicaid patients. The payments are expected to total \$12,183,210 for the 1999-2001 biennium, of which \$3,618,391 is from the general fund and \$8,564,819 is federal funds (the general fund moneys are later returned to the general fund). The payments are made to the two governmental nursing facilities and subsequently returned to the state, less a \$10,000 transaction fee retained by each of the two governmental nursing facilities. Once returned to the state, the general fund share is returned to the general fund and the balance is deposited in the health care trust fund.

The health care trust fund is anticipated to have \$8,715,279 available during the 1999-2001 biennium, including \$190,460 of estimated interest earnings. The moneys in the trust fund can be used for nursing alternative loans or grants as determined by the Department of Human Services. The loans or grants are for capital or one-time expenditures to assist a facility in converting to an alternative care facility. The department's share of a project's cost is limited to \$1 million or 80 percent of the project cost, whichever is less. Of the estimated \$8,715,279 of funding available in the trust fund during the 1999-2001 biennium, \$4,262,410 is appropriated in Senate Bill No. 2012 for service payments for elderly and disabled and the remaining \$4,452,869 will be available for loans or grants during this biennium.

Please refer to Appendix B for a flow chart prepared by the Department of Human Services showing the funding transfers under the program.

Section 3 of Senate Bill No. 2168 provides that the Department of Human Services is to provide reports to the Governor and the Legislative Council on or before August 31 of each year concerning grants awarded or loans approved for alternative nursing facility programs pursuant to the provisions of Senate Bill No. 2168. The Legislative Council assigned this responsibility to the Budget Committee on Institutional Services.

## OTHER STATES

Other states are also utilizing the intergovernmental transfer program. Testimony presented during the 1999 legislative session indicated that other states have been utilizing this mechanism for nearly 10 years, since the early 1990s. The following summarizes four other states' experiences with this funding mechanism.

### **Nebraska**

In 1998 the state of Nebraska received approval and funding from the federal government for an intergovernmental transfer program. Nebraska estimates that it will receive over \$50 million annually. The funds are being used for:

1. Conversion of nursing home beds to assisted living beds;
2. The state's share of the children's health insurance program; and
3. An excellence in health care grant program.

### **Pennsylvania**

Pennsylvania has received intergovernmental transfer funding since 1992. In 1998 Pennsylvania received \$823,907,000. The majority of the funding received is used to fund nursing facility expenditures.

### **Michigan**

Michigan has received intergovernmental transfer funding since 1993. In 1998 Michigan received \$317 million. The funding is used for Medicaid expenditures.

### **Minnesota**

Minnesota has received intergovernmental transfer funding since 1992. Minnesota utilizes the funding for Medicaid expenditures.

## **RURAL COMMUNITY INCENTIVE PACKAGE STUDY PLAN**

The following is a proposed study plan for the committee's responsibilities regarding the rural community incentive package study:

1. Receive information regarding other states' activities relating to intergovernmental transfer programs.
2. Receive information from the Department of Human Services regarding the implementation of 1999 Senate Bill No. 2168, specifically what uses the funding contained in Senate Bill No. 2168 may be used for and the amount of funding actually available through the intergovernmental transfer program.
3. Receive information from interested groups and organizations regarding potential uses for funds in the North Dakota health care trust fund and on other types of incentives, in addition to the provisions of Senate Bill No. 2168, which could be used to assist rural communities reduce long-term care bed capacity and provide alternative long-term care services.
4. Provide recommendations to the Department of Human Services regarding the potential uses of the North Dakota health care trust fund moneys.
5. Provide recommendations to the Legislative Council and the 2001 Legislative Assembly regarding the development of an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services and on the potential uses for the North Dakota health care trust fund and consider any legislation necessary to implement the recommendations.

ATTACH:2

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine**

SENATE CONCURRENT RESOLUTION NO. 4004  
(Legislative Council)  
(Budget Committee on Long-Term Care)

A concurrent resolution directing the Legislative Council to study the possibility of creating an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services.

**WHEREAS**, North Dakota has 75.05 nursing facility beds per 1,000 elderly (age 65 and over) while the national average is fewer than 50; and

**WHEREAS**, North Dakota institutionalizes about 10.3 percent of its elderly population, the highest percentage in the United States; and

**WHEREAS**, there were 7,031 nursing facility beds available during 1996, of which 6,748 or 95.97 percent were occupied and 1,275 basic care beds available during the three-month period beginning January 1997 and ending March 1997, of which 1,061 or 83.22 percent were occupied; and

**WHEREAS**, Medicaid recipients occupied 56.59 percent of the nursing facility beds during 1996 and basic care assistance recipients occupied 64 percent of the basic care beds during the three-month period beginning January 1997 and ending March 1997; and

**WHEREAS**, the closure of a facility in a rural community can have a significant effect on the entire community similar to the loss of other local businesses, schools, hospitals, or churches; and

**WHEREAS**, the Task Force on Long-Term Care Planning recognizes that assistance may be needed for communities when a facility chooses to close or reduce bed capacity; and

**WHEREAS**, facilities in rural communities which are experiencing decreased occupancy and staffing problems usually do not have the necessary resources to develop alternatives to institutional care; and

**WHEREAS**, the Task Force on Long-Term Care Planning concluded that incentives and other forms of assistance should be made available to enable facilities to make the transition toward closing or to providing institutional services to fewer residents; and

**WHEREAS**, incentives could range from a flat payment for each bed delicensed to grants and subsidized loans for developing alternative services and involve the resources and expertise from state agencies, including the State Department of Health, Department of Human Services, Bank of North Dakota, Municipal Bond Bank, and the Department of Economic Development and Finance;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

That the Legislative Council study the possibility of creating an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-seventh Legislative Assembly.

## Intergovernmental Transfer Program

The intergovernmental transfer program is designed to access federal funds. The funds are obtained by paying government owned facilities the difference between the average Medicaid rate and the Medicare upper limit

