

July 2001

## **LONG-TERM CARE NEEDS AND NURSING FACILITY PAYMENT SYSTEM - BACKGROUND MEMORANDUM**

The 2001 Legislative Assembly approved House Bill No. 1196. Section 29 of the bill, a copy of which is attached as Appendix A, provides for a Legislative Council study of the long-term care needs and nursing facility payment system in North Dakota. As part of the study, the committee is to receive progress reports and a final report from the Department of Human Services on its statewide needs assessment and nursing facility payment system study for long-term care.

Section 30 of the bill, a copy of which is attached, appropriates \$241,006 from the health care trust fund to the Department of Human Services for conducting a statewide needs assessment and nursing facility payment system study for long-term care.

### **PREVIOUS STUDIES**

The 1999-2000 Budget Committee on Health Care studied, pursuant to Senate Concurrent Resolution No. 4004, the possibility of creating an incentive package to assist rural communities and nursing facilities close or significantly reduce bed capacity and provide alternative long-term care services. The committee recommended that the 2001 Legislative Assembly consider requiring that moneys generated through the intergovernmental transfer process and deposited in the health care trust fund be used for projects and programs relating to the long-term care industry, including funding for projects that provide alternatives to nursing facility services and projects that reduce nursing facility bed capacity.

The 1997-98 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. Committee recommendations included:

- The repeal of basic care rate equalization (1999 Senate Bill No. 2033).
- The Department of Human Services continuation of the Alzheimer's and related dementia population pilot project (1999 Senate Bill No. 2034) and providing an exception to the case mix system to allow for the establishment of a 14-bed geropsychiatric nursing unit within an existing nursing facility (1999 Senate Bill No. 2035).
- 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 (1999 Senate Bill No. 2038).

The 1995-96 Budget Committee on Home and Community Care studied the use of the state's resources and services in addressing the needs of elderly residents. As 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 services availability.

### **INTERGOVERNMENTAL TRANSFER PROGRAM**

The 1999 Legislative Assembly approved Senate Bill No. 2168 authorizing the Department of Human Services to administer an intergovernmental transfer program. The program accesses additional federal funds through the Medicaid program as a result of the Department of Human Services making government nursing facility funding pool payments to two government nursing facilities in the state--McVille and Dunseith. The payments are made based on the average amount Medicare rates exceed Medicaid rates for all nursing care facilities in the state multiplied by the total of all Medicaid resident days of all nursing homes. Federal Medicaid funds are available for these payments and require a state match. Payments are made to the two government nursing facilities and are subsequently returned to the state, less a transaction fee (\$10,000 during the 1999-2001 biennium and \$50,000 for the 2001-03 biennium) retained by each of the two government nursing facilities. Once returned to the state, the state's matching share is returned to its source (either the general fund or the Bank of North Dakota) and the federal funds are deposited in the health care trust fund. Interest earned on the balance in the fund is retained in the fund. In addition to the transaction fees noted above, the 2001 Legislative Assembly provided an additional \$400,000 transaction fee payment to each of the government nursing facilities for the 1999-2001 biennium.

For the 1999-2001 biennium, \$43.2 million of federal funds was deposited in the health care trust fund. The department estimates \$26.9 million of federal funds will be deposited during the 2001-03 biennium. Based on estimated revenues and expenditures, the balance in

the fund on June 30, 2003, is projected to be \$35.6 million. An analysis of the health care trust fund for the 1999-2001 and 2001-03 bienniums is attached as Appendix B.

### NURSING FACILITY GRANTS OR LOANS

The 1999 Legislative Assembly, in Senate Bill No. 2168, appropriated \$4,262,410 from the health care trust fund for nursing facility grants and loans. During the 1999-2001 biennium, the Department of Human Services received Emergency Commission and Budget Section approval for an additional \$2,218,429 of spending authority from the health care trust fund for nursing facility grants and loans. As a result, the amount available for grants and loans for the 1999-2001 biennium totaled \$6,480,839.

The Legislative Assembly authorized the department to award grants or loans to a nursing facility to convert all or a portion of the facility to provide basic care, assisted living, or other alternative to nursing facility care, or to any other entity providing or developing basic care, assisted living, or other alternative to nursing facility care. As of June 2001, funding of \$6.6 million has been approved or is pending final approval for these grants or loans. The grants that have been approved are:

Type of Grant	Number of Projects	Total
Feasibility	22	\$360,500
Startup	3	58,373
Operating losses	5	315,793
Construction	3	169,860
		\$904,526

Construction loans that have been approved are:

Type of Project	Number of Projects	Total
Alzheimer's unit	1	\$419,758
Assisted living	1	726,435
Basic care (as of July 1, 2001)	1	350,076
Traumatic brain injury unit	1	281,719
		\$1,777,988

Construction loans that are pending final approval are:

Type of Project	Number of Projects	Total
Assisted living	4	\$3,920,000

The 2001 Legislative Assembly approved House Bill No. 1196. The bill removed provisions authorizing the department to issue grants and loans for alternative nursing facility projects but authorized the department to provide loans to nursing facilities, basic care facilities, or assisted living facilities for renovation projects. The Legislative Assembly appropriated \$7,040,000 for these loans for the 2001-03 biennium.

### NURSING FACILITY FUNDING

The schedule below presents a comparison of funding provided for nursing facility costs.

	1997-99 Actual	1999-2001 Legislative Appropriation	1999-2001 Projected Expenditures <sup>1</sup>	2001-03 Legislative Appropriation
General fund	\$65,277,854	\$75,067,679	\$71,543,543	\$80,957,699
Health care trust fund				9,137,300
County funds	1,848,532			
Federal Medicaid funds	156,620,497	177,290,765	168,512,724	209,144,950
Total	\$223,746,883	\$252,358,444	\$240,056,267	\$299,239,949

<sup>1</sup> Based on actual expenditures through May 2001

Based on the funding provided, the department anticipates nursing facility reimbursement rates to increase by 3.78 percent for 2001, 2.8 percent for 2002, and 2.75 percent for 2003 based on the consumer price

index (CPI) and Data Resources, Inc. (DRI) projected increases. The department bases its increases on these indices pursuant to North Dakota Century Code Section 50-24.4-10.

House Bill No. 1196 included specific funding initiatives for nursing facilities and basic care facilities

for the 2001-03 biennium including:

Description	Health Care Trust Fund	Federal Funds	Total
Nursing home bed reduction incentive - The department may pay incentives of up to: \$15,000 per bed if a facility eliminates its entire licensed bed capacity \$12,000 per bed if a facility reduces at least eight beds \$8,000 per bed if a facility reduces fewer than eight beds	\$4,000,000		\$4,000,000
Nursing facility employee salary and benefit enhancements	8,189,054	\$19,107,793	27,296,847
Nursing facility rate limit increase due to rebasing to 1999	681,846	1,590,974	2,272,820
Nursing facility personal care allowance increase by \$10 per month, from \$40 to \$50 per month	266,400	621,600	888,000
Basic care employee salary and benefit enhancements	202,080	471,520	673,600
Basic care personal care allowance increase by \$15 per month, from \$45 to \$60 per month	180,000		180,000
Long-term care nursing scholarship and loan repayment program <sup>1</sup>	489,500		489,500
Total	\$14,008,880	\$21,791,887	\$35,800,767

<sup>1</sup> A long-term care nursing scholarship and loan repayment program is created in the State Department of Health for providing grants of up to \$5,500 to each eligible nursing facility during the first year of the biennium for the facility to use for providing scholarships to nursing staff or others to obtain a nursing education or for assisting nurses employed by the facility to repay their nursing student loans. Each nursing facility must provide an equal amount as matching. If appropriation authority remains after the first year of the biennium, the State Health Council may provide additional matching grants to nursing facilities for the same purpose.

## NURSING FACILITY PAYMENT SYSTEM

North Dakota's nursing facility payment system requires equalized rates, which means nursing facilities may not charge private pay residents a higher rate than individuals whose care is paid for through the Medicaid program. Nursing facilities may, however, charge higher rates for private occupancy rooms.

The North Dakota nursing facility payment system consists of 34 classifications. Classifications are based on the resident assessment instrument (MDS - minimum data set) required in all nursing facilities. The rates for each classification vary by facility based on each facility's historical costs. Residents in higher classifications pay more than residents in lower classifications at the same facility.

Facility rates change annually on January 1 and may change throughout the year due to audits or special circumstances. Revenue received by a facility changes throughout the year based on the classifications of the residents receiving services. Each resident is reviewed within 14 days of admission or reentry from a hospital and every three months subsequently. A resident's classification may change only at the scheduled three-month interval or if hospitalization occurs. The facility is required to give 30-day notice to its residents whenever the facility's rates change. If an individual's classification changes, no notice is required and the rate is retroactive to the effective date of the classification.

## ALZHEIMER'S AND RELATED DEMENTIA PROJECTS

The 1997 Legislative Assembly directed the Department of Human Services to establish pilot projects for Alzheimer's and related dementia populations to

explore the financial and service viability of converting existing long-term care facility bed capacity to a specific service environment targeting the Alzheimer's and related dementia populations. During the 1997-98 interim, the department established a 14-bed pilot project with the Baptist Home of Kenmare. The Department of Human Services monitored the program's costs and services and during the 1999-2000 interim reported that the Alzheimer's and related dementia pilot project accomplished the goals set forth in the original legislation and that the Baptist Home of Kenmare provided appropriate and adequate care to its residents with Alzheimer's and related dementia at a cost of \$15.05 per day less than services of a similar nature provided in a nursing facility. The department approved additional pilot projects, including Edgewood Vista in Bismarck, Edgewood Vista in Minot, and Exner's Basic Care, Inc., in Jamestown. These projects are operating and will convert to basic care beds after July 1, 2001.

## NURSING CARE AND BASIC CARE BED MORATORIUM

The 2001 Legislative Assembly approved House Bill No. 1196 and Senate Bill No. 2098. Provisions of these bills continue, through July 31, 2003, the moratorium on the expansion of nursing facility bed capacity above the state's gross license capacity of 7,140 beds adjusted for any reduction in beds before July 1, 2001. The provisions allow, not more than once in a 12-month period, a nursing facility to convert licensed nursing facility bed capacity to basic care bed capacity and a basic care facility to convert basic care bed capacity that was licensed after July 2001 to nursing facility bed capacity. In addition, these provisions allow the

transfer of existing nursing facility or basic care bed capacity from a municipality to a tribal reservation during the 2001-03 biennium only to the extent that the transferring facility reduces its licensed capacity by twice the number of beds transferred.

Regarding basic care, the provisions of these bills continue, through July 31, 2003, the moratorium on basic care bed capacity. These bills provide that except for a nursing facility that is converting nursing facility bed capacity to basic care, the Alzheimer's and related dementia pilot projects that are requesting licensure of existing beds as basic care, or unless the applicant demonstrates to the State Department of Health and the Department of Human Services that a need for additional basic care bed capacity exists, the department may not issue a license for additional basic care bed capacity above the state's gross licensed capacity of 1,471 beds adjusted for any reduction in beds before July 1, 2001.

### **STUDY PLAN**

The committee may wish to proceed with this study as follows:

1. Receive progress reports and the final report from the Department of Human Services on its statewide needs assessment and nursing facility payment system study for long-term care.

2. Receive status reports from the Department of Human Services regarding the level of spending for long-term care services under the medical assistance and basic care assistance programs.
3. Receive information from the State Department of Health regarding licensed bed capacity and any request for transfers of nursing facility bed capacity to basic care bed capacity or vice versa.
4. Receive testimony from interested persons, including the North Dakota Long Term Care Association, regarding long-term care needs and the reimbursement system in North Dakota.
5. Consider whether the moratorium on the expansion of nursing facility or basic care facility bed capacity should be continued.
6. Develop committee recommendations and prepare any legislation necessary to implement the committee recommendations.
7. Prepare a final report for submission to the Legislative Council.

ATTACH:2