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2001 HOUSE HUMAN SERVICES

HB 1116

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1116

House Human Services Committee

Conference Committee

Hearing Date January 23, 2001

Tape Number	Side A	Side B	Meter #
Tape 2	X		0 to end
Tape 2		X	0 to end
Tape 3		X	2095 to 3430
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep Sandvig.

Chairman Price: Opened hearing on HB 1116

Dave Zentner: Director of Medical Services for the Department of Human Services. (See written testimony.)

Chairman Devlin: You talk about prior authorization for drugs, but as I read the language of the bill itself is there anything that a medical provider in North Dakota, from an ambulance driver on up, that wouldn't be covered under this bill the way it's drafted?

Dave Zentner: The concern of the department was where the legislature wanted to fall on this issue, because it would appear there was some question about our ability to do prior authorization without asking the legislature. We are at least asking for permission.

Rep. Devlin: How often has the DUR Board met in the last year?

Dave Zentner: It has not met for some time. We are in the process of hiring an Pharmacist.

Rep. Devlin: Because the pharmacist left you, what medical background would someone in your department need to make decisions?

Dave Zentner: We are replacing him with another Pharmacist who will be on board.

Vice Chairman Price: There was some concern among some of the administrative rules committee that we don't see the cost. Some of the other states find this very expensive, how can you do this with the same amount of staff? How can you do it so much cheaper?

Dave Zentner: We are very efficient and we have very good people. We are willing to take that chance without adding anymore staff.

Vice Chairman Devlin: There are some concerns that you can nickel and dime yourself to death, and in this particular case we could say "yes, there is some savings in this", but there also savings from people who spend less time in the hospital, may didn't have to have the surgery they would have had to before the new level of drugs came out. How would you factor that into what you're presenting to us?

Dave Zentner: When we build our budget, we look at each individual services and if they are trending down, we are going to recognize that when we present the budget. My concern is whether your paying for a \$200 a month drug and a \$40 a month drug will do the same job.

Vice Chairman Devlin: We were under the impression the DUR Board was the natural place for this thing to work, and I'm shocked the board didn't meet at all in the year 2000.

Dave Zentner: It was due to staff turnover and waiting for new data.

Rep. Sandvig: Could you tell us who was on the DUR Board for the department?

Dave Zentner: I do not have that information, but can provide that for you. It is made up of pharmacists and physicians.

Rep. Sandvig: You said that the department gets a rebate from the drug companies. Why then is it such a problem to have those drugs paid for?

Dave Zentner: There isn't really a problem.

Rep. Sandvig: Don't you think the doctor that is describing the drug knows what is best for the patient.

Dave Zentner: There are thousands of drugs out there, and doctors aren't always aware of what's available.

Rep. Sandvig: I've talked to some pharmacists and they say the form they will be filling out will be a paper work nightmare. What isn't this burden put on the department?

Dave Zentner: We are seeking information so that we can make a decision on what drug is appropriate.

Chairman Price: Why would pharmacist be required to fill out as opposed to physicians who prescribe the drug?

Dave Zentner: They have the information readily available. They are a better source to provide the information.

Chairman Price: Don't you think that if the physician has the form in front of him at the point that they saw the patient, that it would trigger in their brain to even think of the possibility of a different drug?

Dave Zentner: That is a possibility. We just know that our experience in working with pharmacists and physicians that placing it with the pharmacist is probably the most efficient way.

Rep. Sandvig: I'm still having a little bit of problem with the idea that the physicians don't know what is best for their patient. They are trained in that. Your saying \$180,000 in general funds, why does the department always seem to be balancing their budget on the backs of the poor people?

Dave Zentner: I don't do this as necessarily balancing our budget on the backs of recipients. What we're saying here is if the most expensive drug is the drug that should be used, we will pay for that. If something else that is a lesser cost can do the job, we want to do that.

Rep. Porter: The paper work involved and the phone contacts between the pharmacist and the physicians, and the checking of prescriptions, and looking over the authorization list, all this extra burden we are putting on the pharmacist, how do they recoup their costs for doing this work?

Dave Zentner: We do pay a fee for overtime they provide a prescription.

Rep. Porter: Line 8 where it encompasses now all medical services and the department is going to micro manage different areas, you listed four or five different areas that you currently prior authorize on, how expansive is this list going to get as you look at this new authority?

Dave Zentner: Not much longer, I can tell you that. The areas that we chose are those we think get our best savings for our dollars. What we do prior authorize is of a limited nature. We are not looking to adding to the burden.

Rep. Porter: In this particular bill form, why wasn't the limits put in place for the medical services to limit to what you felt was necessary rather than a cart blanche approach of just listing everything that exists in medicine?

Dave Zentner: My biggest concern was that based on the administrative rules committee there was indication that the department needed to, because this was a public policy issue, have prior authorization approved by the legislature.

Rep. Niemeier: In the area of medical services would you be apt to ask for authorization on things like diagnostic tests, and does the 30 day time frame apply to these services as well as drug usage?

Dave Zentner: We're only looking at three classes of drugs. It does not apply to diagnostic testing.

Rep. Niemeier: But you could under this legislation?

Dave Zentner: That is correct. It does give us authority to implement prior authorization. What I'm trying to ascertain is what does the legislature want and expect of the department in relationship to prior authorization.

Rep. Niemeier: Would the 30 day amendment that you propose apply to medical services as well?

Dave Zentner: No, this is specific to the drug prior authorization and is designed to give the medical people the time to look into the issue. It really provides up to 37 days for them to document the needs and show us the drugs are used appropriately.

Vice Chairman Devlin: The committee was very concerned that the department did not have authority under the law to prior authorize drugs. We told them that they should bring this to the legislature because that is a policy making decision.

Rep. Klein: How are the savings and expenditures are here already before we've passed the bill.

Dave Zentner: When we submitted the executive budget to OMB, that was one of the areas that was shown as a possible cost savings.

Rep. Sandvig: You said there are 26 states that prior authorize the same drug, what are the other states doing to cut costs?

Dave Zentner: Most states think there are issues of usage and that prior authorization can save some dollars.

Rep. Sandvig: You must have assumed the bill would automatically be passed if you didn't include the medical cost of these drugs in your budget.

Chairman Price: What are the statistics for other state's that use prior authorization?

Dave Zentner: I don't have those, but I can check with other states.

Rep. Niemeier: What was the rationale behind choosing three classes of drugs?

Dave Zentner: These were high end drugs and were going up at a much greater pace. They looked at the utilization information.

Cal Rolfson: Attorney practicing in Bismarck and Legislative Consultant for the Pharmaceutical Research and Manufacturers of America (PhRMA). I appear in opposition of HB 1116. (See written testimony.) Pharmaceuticals are recognized as one of the most cost-effective and least invasive health care resources available, state Medicaid departments already receive considerable assistance from the pharmaceutical industry for drug expenditures, prior authorization programs interfere with the provision of appropriate and necessary medical care, prior authorization programs often result in increased expenditures, contrary to the savings projections anticipated during development, prescription and nonprescription medications vary considerably and should not be viewed as equally effective alternatives for the management of illnesses.

Vice Chairman Devlin: We didn't take the position whether it was good or bad, our only consideration regarding administrative rules was whether they have the authority to do it.

Chairman Price: Mr. Rolfson, you give a number of examples on page 4, are any of those types of drugs that you reference of the three classes that the department proposing to prior authorize?

Calvin Rolfson: I think Kelly would be the one to answer that question.

Kelly Marshall: Works for Pharmacia Corporation. The three classes they are recommended aren't included in that. By allowing access to drugs, you're probably saving money in a lot of different avenues. When you prior authorize you look at the fact that you are getting in between the physician and the patient.

Rep. Klein: How long will it take for less expensive drugs to get expensive if the persons going to be prescribing them there cost is going to be going up. How long will it take before they get as expensive as the other drugs. Seems to me they would catch up sooner or later.

Kelly Marshall: I think in terms of less expensive drugs a lot of times you're talking about generic equivalent. In which case they wouldn't get more expensive. Again you have to weigh that against the cost of more effective, more expensive drugs versus the cost of not treating.

Rep. Niemeier: Generic drugs have certainly become a popular alternative. Is there a difference in how generic and other drugs are developed?

Kelly Marshall: No. We go through 15 years on average to develop a drug. When a drug goes off patent, other companies can manufacture the drugs. So they don't have to do the research to develop the drug.

David Peske: Director of Governmental Relations for the ND Medical Association. (See written testimony.) HB 1116 would give the Department of Human Services discretion to require prior authorization for (1) medical services, and (2) certain outpatient drugs under Medicaid. The North Dakota Medical Association opposes HB 1116, and opposed a similar proposal made last year by the department before the Legislative Council's Administrative Rules Committee,

relating specifically to outpatient drugs. Until the department better utilizes the DUR Board and its intended scope, HB 1116 is premature in granting the department the ability to impose prior authorization. For these reasons, the North Dakota Medicaid Association urges a DO NOT PASS on HB 1116.

Chairman Price: Closed hearing on HB 1116.

Chairman Price: I will reopen the hearing on HB 1116.

Galen Jordre: Executive Vice President, North Dakota Pharmaceutical Association. Our primary concern is that all of our patients receive the medication that is most appropriate for what they need. We are not supportive of the prior authorization program as the primary means of controlling utilization of prescription drugs. We would prefer to see more aggressive use of the DUR board to outline specific utilization problems and then direct educational programs outlining treatment protocols to both prescribers and pharmacists who work with Medicaid patients.

Rep. Niemeier: We're talking about basing the need for this action, partly on the fact that prescription drugs have skyrocketed. We all have an idea why this has happened, but I'd like to hear yours.

Galen Jordre: First we are utilizing more prescription drugs because, in many cases, they are the appropriate therapy. I'm sure development costs are higher, there is better screening, new products with less side effects are coming out, and they do things that the old drugs did not do. they do save a lot of other areas.

Rep. Niemeier: When you talk about greater utilization, we always used to think that products were cheaper in volume. How do you respond to that?

Galen Jordre: The drug companies do have the cost of investments and research.

Chairman Price: Close the hearing on HB 1116.

COMMITTEE WORK:

Chairman Price: HB 1116.

Vice Chairman Price: Mr. Zentner had a legitimate concern is that if we take the bill the way it is an kill it, they are never going to be able to preauthorize anything. I wouldn't mind seeing us amend everything out of this bill except the prior authorization of drugs, and then vote that up or down. I was just being sensitive to his concern.

Chairman Price: (Discussed changes in the amendment.)

Vice Chairman Price: Changes would be on line 7 will read "prior authorization required for medical assistance coverage" and then take out the three words of "medical services and" would all come out. So it would be "prior authorization required for medical assistance coverage of outpatient drugs". After the drugs I would take out the rest of line 8 and all of line 9 up until the period.

Chairman Price: So we're looking at the amendments that we just read, plus the proposed amendments from the Department of Human Services? So it is all one amendment at this point.

Rep. Dosch: Should part of this amendment be that we recommend the department use the DUR Board to the best of their ability.

Chairman Price: All those in favor of this amendment signify by saying Aye. All in agreement.

Rep. Pollert: This is going to basically force the department to take a look at how they are going to save some money on the drugs.

Chairman Price: For a \$65,000,000 budget, they are looking at saving \$180,000.

Rep. Galvin: Motion for a DO NOT PASS.

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Rep. Sandyig: Second.

Chairman Price: Any other discussion. Seeing none the clerk will take the roll for a **DO NOT**

PASS AS AMENDED.

13 YES 0 NO 1 ABSENT CARRIED BY REP. DEVLIN

