

2011 SENATE HUMAN SERVICES

SB 2077

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2077
1-11-2011
Job Number 12761

Conference Committee

Committee Clerk Signature

Ramon

Explanation or reason for introduction of bill/resolution:

Relating to expanded service payments for elderly and disabled.

Minutes:

Attachment testimony.

Senator Judy Lee opened the hearing on SB 2077. The fiscal note indicates there is no fiscal impact.

Karen Tescher, Assistant Director of the Long Term Care Continuum in the Medical Services Division of the Dept. of Human Services, provided background and support for SB 2077. Attachment #1 and #2

Senator Judy Lee asked Ms. Tescher to walk through the bill where the new language is.

Mrs. Tescher referred to page 2, lines 1-7, where some of the information is no longer current. On lines 2-3 they want to make sure they have applied for and are receiving benefits if they are eligible. The part that was part of the amendment information talked about with the LTC Association goes from line 9-19. The rest is just clean up of definitions. The last part of the bill is the separate chapter for ExSPED so it more clearly defines. She explained that ExSPED is very similar to basic care. It is the portion that is like basic care but is for someone who is staying at home and getting services.

Discussion followed on the definitions and language that was moved or changed.

Senator Spencer Berry wondered about the requirements to be determined disabled.

Ms. Tescher referred to the graph in her testimony - attachment 2 - which showed the comparisons.

When looking at the overall meaning and wording it does allow the same level of individuals to be eligible for the program. When looking at the either/or sections, if they aren't impaired in one, they can receive it with the other areas of impairment.

The anticipated impact was discussed. Eligibility would be quite similar. Payment sources would be different for private and public pay.

The department believes they have the services now for the different types of eligibility. This is just to make it clearer and to define it in a way that it would be more easily understood by someone looking at the century code.

Ms. Tescher talked about how the department gets information out to the public – website, the ADRC pilot project, marketing tools currently being developed.

Senator Judy Lee asked Ms. Tescher to talk about the Aged and Disabled Resource Center (ADRC).

Ms. Tescher explained the ADRC is a new pilot off the ground now. This can refer people to the right services without that person having to make so many calls. She talked about the LCA (Local Contact Agencies) that are now across the state in the Human Service Centers.

Money Follows the Person is another area where they have assisted people to transition out of nursing facilities and intermediate care facilities back to their homes or a supported living environment. The focus is on the individual not the institution.

Shelly Peterson, ND LTC Association, testified in support of SB 2077 and she proposed amendments. Attachment #3

In the new chapter for the ExSPED the supervision requirement is in there. They would like to retain the language on page 2 in the chapter for basic care.

She talked about the differences between basic care and assisted care and skilled nursing care.

About 44 out of every 100 individuals in Basic Care are getting government assistance. In Assisted Living generally is 95-96% private pay. Private pay includes LTC insurance.

In a nursing facility, generally about 53% of all residents are on Medicaid. The rest are paying private pay or Medicare picks a smaller portion and LTC insurance.

There was a short discussion on entering nursing facilities on private pay and eventually depleting their personal resources. The average length of stay in a nursing facility is decreasing.

Senator Spencer Berry asked about the current laws as it relates to individuals and spending down funds to become eligible for Medicaid.

Ms. Peterson replied that generally there is a five year look back and deferred giving any further information because of it being so technical.

Maggie Anderson, Medical Services Division, offered to get more information for the committee.

There was no opposing or neutral testimony.

The hearing on SB 2077 was closed.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2077
1-17-2011
Job Number 12983

Conference Committee

Committee Clerk Signature	<i>Y. Monahan</i>
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Explanation or reason for introduction of bill/resolution:

Relating to expanded service payments for elderly and disabled.

Minutes:

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Senator Judy Lee opened SB 2077 for committee work.

Senator Tim Mathern moved to accept the amendments presented by Shelly Peterson.

Seconded by **Senator Dick Dever**.

Senator Tim Mathern pointed out that he saw this bill as separating in the century code the various forms of institutional care and attempting to keep the criteria for each form separate and the same.

Roll call vote 5-0-0. **Amendment adopted.**

Senator Tim Mathern moved a **Do Pass as Amended**.

Seconded by **Senator Dick Dever**.

Roll call vote 5-0-0. **Motion carried.**

Carrier is **Senator Tim Mathern**.

FISCAL NOTE

Requested by Legislative Council
01/21/2011

Amendment to: SB 2077

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill as amended, creates a chapter in the NDCC separating Expanded Service Payments for the Elderly and Disabled (ExSPED) & Basic Care simplifying the administration of the programs & defining the ExSPED services. No fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

No fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Debra A. McDermott	Agency:	Dept of Human Services
Phone Number:	328-3695	Date Prepared:	01/21/2011

FISCAL NOTE

Requested by Legislative Council
12/22/2010

Bill/Resolution No.: SB 2077

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill aligns Basic Care Personal Care & Room and Board eligibility requirements. It creates a chapter in the NDCC separating Expanded Service Payments for the Elderly and Disabled (ExSPED) & Basic Care simplifying the administration of the programs & defining the ExSPED services. No fiscal impact.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

No fiscal impact.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Debra A. McDermott	Agency:	Dept of Human Services
Phone Number:	701-328-3695	Date Prepared:	12/29/2010

January 17, 2011

Jo3
1-19-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2077

Page 2, line 9, remove the overstrike over "~~is not severely impaired in any of the~~"

Page 2, remove the overstrike over line 10

Page 2, line 11, remove the overstrike over "and"

Page 2, line 11, remove "the recipient is determined to be impaired"

Page 2, line 12, remove the overstrike over "~~Has health, welfare, or safety needs, including a need for supervision or a~~"

Page 2, remove the overstrike over line 13

Page 2, line 14, remove the overstrike over "~~care home or an assisted living facility~~"

Page 2, line 14, remove "In at least one of the activities of daily"

Page 2, remove line 15

Page 2, line 16, remove "transferring"

Page 2, line 17, remove the overstrike over "~~Is impaired in~~"

Page 2, line 17, remove "In at least"

Page 2, line 17, remove the overstrike over "~~following four~~"

Page 2, line 18, remove the overstrike over "~~preparing meals, doing housework, taking medicine, and doing~~"

Page 2, line 19, remove "of medication assistance."

Page 2, line 19, remove ", housekeeping, and meal preparation"

Page 2, line 20, overstrike "d." and insert immediately thereafter "e."

Renumber accordingly

Date: 1-17-2011

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2077

Senate HUMAN SERVICES

Committee

Check here for Conference Committee

Legislative Council Amendment Number Shelly Peterson

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Mathern Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Gerald Uglem, V. Chair	✓				
Sen. Dick Dever	✓				
Sen. Spencer Berry	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-17-2011

Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2077

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8077.01001 Title 02000

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Mathern Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Gerald Uglem, V. Chair	✓				
Sen. Dick Dever	✓				
Sen. Spencer Berry	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Mathern

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2077: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2077 was placed on the Sixth order on the calendar.

Page 2, line 9, remove the overstrike over "~~is not severely impaired in any of the~~"

Page 2, remove the overstrike over line 10

Page 2, line 11, remove the overstrike over "and"

Page 2, line 11, remove "the recipient is determined to be impaired"

Page 2, line 12, remove the overstrike over "~~Has health, welfare, or safety needs, including a need for supervision or a~~"

Page 2, remove the overstrike over line 13

Page 2, line 14, remove the overstrike over "~~care home or an assisted living facility~~"

Page 2, line 14, remove "In at least one of the activities of daily"

Page 2, remove line 15

Page 2, line 16, remove "transferring"

Page 2, line 17, remove the overstrike over "~~is impaired in~~"

Page 2, line 17, remove "In at least"

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Page 2, line 19, remove "of medication assistance."

Page 2, line 19, remove ", housekeeping, and meal preparation"

Page 2, line 20, overstrike "d." and insert immediately thereafter "e."

Renumber accordingly

2011 HOUSE HUMAN SERVICES

SB 2077

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2077
March 7, 2011
Job #15001

Conference Committee

Committee Clerk Signature

Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

Requirements for basic care assistance eligibility, personal care services and functional assessment criteria.

Minutes:

See attached Testimony #1

Chairman Weisz: Opened the hearing on SB 2077.

Karen Tescher: Assistant Director of Long Term Care Continuum in Medical Services for the DHS testified in support of the bill. (See Testimony #1.)

Rep. Paur: You say the definitions on pages 1, 5 and 6 appear to be similar, are they different?

Karen: There is a bit of a difference as far as the eligibility. That is what we are trying to make clearer and maybe to assist in that, we outlined the differences.

Rep. Paur: Use couldn't have used the same definition for both?

Karen: That would be easier wouldn't it? There is a little bit of difference in the services available for expanded bed and basic care. If you look at basic care, that is generally provided in a facility. The expanded services for the elderly and disabled under that section gives all the different services that a person can acquire within their own home. They are really two different settings that they will be getting the service in. It is clearer if we divide them up in different chapters.

Rep. Damschen: I noticed the qualified service provider definition is stricken and is referred to someplace else in the bill on page 7 line 8. So it is redefined there?

Karen: That is correct. A qualified service provider is simply the entity that enrolls with the department to provide those services. It is restated in (inaudible) chapter.

Rep. Holman: How is this going to change what you do? Classifications, people change, add people, move people in different categories or does it just make it easier?

Karen: It really doesn't move anybody. The two things that this bill will do as stated is take out the information on financial eligibility that doesn't apply anymore. The information and wording that was before 1995 and it simply separates out basic care definition from expanded bed. It does not change the type of individual or the clientele being served or the services they will receive.

No Opposition

Chairman Weisz: Closed the hearing on SB 2077.

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2077
March 22, 2011
Job #15788

Conference Committee

Committee Clerk Signature *Vicky Crabtree*

Minutes:

You may make reference to "attached testimony."

Chairman Weisz: Ok, 2077.

Rep. Holman: In 10 words or less what does this do?

Chairman Weisz: Not much, but it does help define what is paid under basic care and the personal care allowance. Adds a new chapter relating to expanded bed. They are moving a whole new section because of service eligibility criteria are different so separation of the two chapters will assist in administering these new programs. The new chapter more clearly defines its services available under expanded SPED.

Rep. Holman: Does it change the amount or allow flexibility?

Chairman Weisz: I don't think it changes anything in that regard. On Page 7 it says, "Pay qualified service providers at rates determined by the department, within limits of legislative appropriation, for the provision of the following services". The change they are talking about on the personal care allowance that is on page 5 lines 20-25 and then it takes out the dollars because it is the amount allowed as a personal needs allowance plus that person's total income. As that goes up it would automatically increase. To me that is an improvement. The biggest change is they are taking most of the language they are over-striking in that section and putting it into its own section.

Rep. Paur: I have a note here why they moved the definitions over. On page 3, line 28 they crossed out service and put in basic care under the powers and duties. And under powers and duties on page 7 they go back to service providers.

Chairman Weisz: 50-24.5-02 is the basic care section. In the past they were including expanded SPED in that section that is why the language said, pay qualified service providers because it was broader. Now what they are saying that section will be strictly basic care. They then deleted all the language talking about services. Then they set up the new section 50-24.5-04. Section 5 would be a new title and now becomes a service provider section. None of that applies to basic care. It will be better to define changes then. Nothing jumps out at me that there is a problem in here.

Rep. Holman: Was there a problem with duplicate payments? There are Medicaid patients and then there are also the supplemental security and social security disability benefits. Is there a problem with working with those multiple programs and they are trying to fix that?

Chairman Weisz: I don't think there is a problem with duplicate payments. There is an issue with SSI and SPED with basic care and the Medicaid rate, personal care allowances and they are really don't have anything to do with each other. The rules and the administration aren't anywhere similar.

Rep. Hofsad: Does this help the department in their reporting process or does it help the nursing homes as they seek to qualify and quantify those patients when they do their reporting. I'm confused on who we are helping here.

Chairman Weisz: I don't think it will have any effect on the basic care providers except for the language on the personal needs allowances which is defined on page 2. We are leaving that the way it is. Where it will have an effect is in some of your other services providers. Will it make a difference for them or in working with the state? I'm not sure.

Rep. Hofstad: I'm wondering if at the nursing home level if it will move patients into more eligible categories.

Chairman Weisz: I don't think it will have any effect on someone qualifying on basic care or skilled care. It may have some effect on someone who qualifies for in-home services. I think it does clarify a lot on what we have doing on the in-home care.

Rep. Holman: I'm trying to figure out if we are separating the two classifications I'm trying to see if the new section deals with Medicaid versus the old section being changed to deal with social security and disability. They both start out the same as far as disqualified. There is no fiscal note and just cleaning up language to keep doing what they are doing and keep their record keeping easier. I don't know that though.

Chairman Weisz: We wouldn't have to put the definitions that are in 24.5-01 into the new section. For whatever reason they wanted them in there again. We could take those out if we so desire. They are identical until you get to the eligible beneficiary. There is a difference there in the definition of eligible beneficiary. The rest of the definitions are the same.

Rep. Paur: They are in a new chapter.

Chairman Weisz: They are in a new section of Chapter with the Title 50. That is one of the reasons they wanted to separate them out because eligibility is different for basic care than for these other services. Now we can define what qualifies for eligibility.

Rep. Paur: I move a Do Pass.

Rep. Holman: Second.

House Human Services Committee

SB 2077

March 22, 2011

Page 3

VOTE: 11 y 0 n 2 absent – Rep. Devlin and Conklin

Bill Carrier: Rep. Schmidt

Date: 3-22-11
 Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2077

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Paur Seconded By Rep. Holman

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. CONKLIN	A	
VICE-CHAIR PIETSCH	✓		REP. HOLMAN	✓	
REP. ANDERSON	✓		REP. KILICHOWSKI	✓	
REP. DAMSCHEN	✓				
REP. DEVLIN	A				
REP. HOFSTAD	✓				
REP. LOUSER	✓				
REP. PAUR	✓				
REP. PORTER	✓				
REP. SCHMIDT	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2077, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2077 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2077

#1

Testimony
Senate Bill 2077 – North Dakota Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 11, 2011

Chairman Lee, members of the Senate Human Services Committee, I am Karen Tescher, Assistant Director of the Long-Term Care Continuum in the Medical Services Division of the Department of Human Services. I am here today on behalf of the Department to provide background information and to support Senate Bill 2077. This bill will create and enact a new chapter to Century Code, relating to expanded service payments for the elderly and disabled; and will amend and reenact sections relating to the requirements for basic care assistance eligibility, personal care services, and functional assessment criteria.

Basic care facilities may receive two payments for a public pay client; one for Medicaid Personal Care and one for Room and Board. To receive the Medicaid Personal Care part of the payment, a client must be functionally eligible for Personal Care and must be financially eligible to receive Medicaid. Medical Services is responsible for administering this aspect of the payment.

To receive room and board part of the payment of the Basic Care Assistance Program, the client must be receiving Medicaid and must meet functional requirements. The Economic Assistance Division is responsible for administering the Basic Care Assistance Program.

This bill proposes to require individuals applying for assistance under the Basic Care Assistance Program to apply for and, if eligible, to receive benefits under the Medicaid program. In addition, page 2 of the bill, line 1-7, b. proposes to require individuals to apply for and receive, if eligible, any Supplemental Security Income or Social Security Disability benefits to assist with the cost of room and board in a licensed basic care facility. The amendments also propose to remove language regarding stipulations before July 1, 1995 which are no longer applicable.

After filing the bill, we were contacted by the North Dakota Long Term Care Association. They were uncomfortable with some of the suggested changes and were concerned that by taking out the specific portion concerning supervision; it could possibly limit individuals from being functionally eligible for basic care. Though data from the Department did not reveal any cases that were currently receiving payment for just room and board, it is not the Department's intent to cause unnecessary concern with the basic care facilities. Therefore, we worked with the North Dakota Long Term Care Association to draft appropriate language for their forthcoming amendment to Senate Bill 2077.

The proposed bill also adds a new chapter to Title 50 of the Century Code relating to expanded service payments for the elderly and disabled or ExSPED. This chapter is being created to separate ExSPED from the provisions of the Century Code related to basic care. The service eligibility criteria are different from basic care and the separation of the two chapters will assist in administering these two programs. The new chapter more clearly defines the services available under ExSPED, the Department's powers and duties, the counties' powers and duties, and the applicant's or guardian's duty to establish eligibility.

The definitions have been changed throughout the bill to update the financial eligibility and functional assessment descriptions.

This concludes my testimony. I would be happy to answer any questions you may have.

FUNCTIONAL and FINANCIAL ELIGIBILITY REQUIREMENTS COMPARISON
 North Dakota Department of Human Services (1/2011)

#2

<p>BASIC CARE LICENSED BY THE HEALTH DEPARTMENT</p>	<p>BASIC CARE BCAP- Room and Board</p>	<p>BASIC CARE MEDICAID STATE PLAN- PERSONAL CARE (MSP-PC)</p>	<p>EXPANDED SERVICES FOR THE ELDERLY & DISABLED (EXSPED)</p>
<p>Service Room and board Health, social, and personal care consistent with the resident assessment and care plan. These services shall be provided on a twenty-four-hour basis and shall include assistance with activities of daily living and instrumental activities of daily living, provision of leisure, recreational, and therapeutic activities, and supervision of nutritional needs and medication administration.</p>	<p>Services • Room and Board Payment Room and Board Payment: Includes property, food, utilities, other plant, and other direct and indirect cost.</p>	<p>Service • Personal Care Services Personal Care Service: Assistance with activities of daily living (ADLs) such as bathing, dressing, toileting, transferring, eating, mobility and incontinence care and with instrumental activities of daily living (IADLS) may be provided in conjunction with the tasks for ADLs.</p>	<p>Services • Adult Day Care • Adult Foster Care • Chore • Emergency Response • Environmental Modification • Family Home Care • HCBS Case Management • Homemaker • Respite • Non-Medical Transportation</p>
<p>Requirements Based on Licensing Rules CHAPTER 33-03-24.1 Governing Body, Fire Safety (Based on slow evacuation index), Education Programs, Resident Assessments and Care Plans, Resident Records, Personal Care Services, Pharmacy and Medication Administration Services, Social Services, Nursing Services, Dietary Services, Activity Services, Housekeeping and Laundry Services General Building Requirements</p>	<p>Functional Eligibility Not severely impaired in ADLs: Toileting, Transferring, Eating And Impaired in 3 of the 4 following IADLs: • Meal Preparation • Housework • Laundry • Medication Assistance Or Have health, welfare, or safety needs, including requiring supervision or structured environment</p>	<p>Functional Eligibility Impaired in 1 ADL Or Impaired in 3 of the 4 following IADL's • Meal Preparation • Housework • Laundry • Medication Assistance</p>	<p>Functional Eligibility Not severely impaired in ADLs: Toileting, Transferring, Eating And Impaired in 3 of the 4 following IADLs: • Meal Preparation • Housework • Laundry • Medication Assistance Or Have health, welfare, or safety needs, including requiring supervision or structured environment</p>
<p>Financial Eligibility Private Pay Or Medicaid Eligible</p>	<p>Financial Eligibility Medicaid Eligible</p>	<p>Financial Eligibility Medicaid Eligible</p>	<p>Financial Eligibility Medicaid Eligible</p>
<p>Program Cap Private Pay: Each facility sets rate (minimum rate must = Medicaid's rate) Medicaid Eligible- Facility specific based on historical cost of the facility</p>	<p>Program Cap Daily Rate Per/day Average for Room and Board- \$50.95</p>	<p>Program Cap Daily Rate Per/day Average for MSP-PC -\$41.07</p>	<p>Program Cap \$1930.00 per month</p>

Testimony on SB 2077
Testimony before Senate Human Services Committee
January 11, 2011

Good Morning Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson representing the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities in North Dakota. I am here to testify in support of SB 2077 with an amendment. The amendment is important for maintaining the current eligibility requirements for basic care.

I understand it was the goal of the Department of Human Services in SB 2077 to separate EXSPED and basic care by each having their own chapter. It was considered housekeeping and simplifying, while retaining the current eligibility requirements for both programs. From our perspective the bill changed eligibility for basic care taking out the criteria for supervision and safety. We recognize this criteria should be evaluated and potentially changed, but the change should come after input by basic care providers and the residents under their care. It was felt changing the criteria without this important first step was premature. We appreciate the Department listening to our concerns and indicating in advance they would support the amendment to retain the criteria. We encourage you to adopt the amendment and we commit to working with the Department to review eligibility criteria after the 2011 session.

The criteria of supervision and safety is important because of the types of individuals seeking basic care services. Let me briefly describe the types of individuals seeking basic care.

Seventy percent of basic care residents are female and the majority were living in their own home prior to admission. Current residents range in age from 23 to 104, with the average age being 78. Cognitive decline is the top issue precipitating the need for placement.

Care Needs of Basic Care Residents:

- 72% of residents have impaired mental status, ranging from early stage dementia to a significant mental health issue.
- 85% of residents need full assistance with medication administration.
- Over one-third of residents (35%) are receiving psychoactive drugs.
- Most residents are independent in dressing (60%) with less than 10% requiring extensive assistance (8.6%).
- 81% of residents need assistance in bathing.
- Most residents are fully independent in eating (88%), toileting (80%) and transferring (92%).
- 60% are ambulatory and do not need any staff assistance, 48% use a walker and very few use a wheelchair (7%).

North Dakota has 64 licensed basic care facilities representing 1,760 licensed beds. The average daily cost of this twenty-four hour residential and supportive care is around \$90.00.

This concludes my testimony. In summary we support SB 2077 with the proposed amendment. I would be happy to answer any questions you may have.

Shelly Peterson, President
North Dakota Long Term Care Association
1900 North 11th Street • Bismarck, ND 58501 • (701) 222-0660
Cell (701) 220-1992 • www.ndltca.org • E-mail: shelly@ndltca.org

PROPOSED AMENDMENTS TO SENATE BILL NO. 2077

Page 2, line 9, remove the overstrike over "~~is not severely impaired in any of the~~"

Page 2, remove the overstrike over line 10

Page 2, line 11, remove the overstrike over "~~and~~" and remove "the recipient is determined to be impaired"

Page 2, line 12, remove the overstrike over "~~Has health, welfare, or safety needs including a need for supervision or a~~"

Page 2, remove the overstrike over line 13

Page 2, line 14, remove the overstrike over "~~care home or an assisted living facility~~" and remove "In at least one of the activities of daily"

Page 2, remove line 15

Page 2, line 16, remove "transferring"

Page 2, line 17, remove the overstrike over "~~is impaired in~~", remove "In at least", and remove the overstrike over "~~following four~~"

Page 2, line 18, remove the overstrike over "~~;- preparing meals, doing housework, taking medicine, and doing~~"

Page 2, line 19, remove "of medication assistance," and remove ", housekeeping, and meal preparation"

#1

Testimony
Engrossed Senate Bill 2077 – Department of Human Services
House Human Services Committee
Representative Weisz, Chairman
March 7, 2011

Chairman Weisz, members of the House Human Services Committee, I am Karen Tescher, Assistant Director of the Long-Term Care Continuum in the Medical Services Division of the Department of Human Services. I am here today on behalf of the Department to provide background information on Engrossed Senate Bill 2077. This bill, as amended, will create and enact a new chapter to the Century Code, relating to expanded service payments for the elderly and disabled; and will amend and reenact sections relating to the requirements for basic care assistance eligibility.

Basic care facilities may receive two payments for a public pay client; one for Medicaid personal care and one for room and board. To receive the Medicaid personal care part of the payment, a client must be functionally eligible for the Personal Care program and must be financially eligible to receive Medicaid. Medical Services is responsible for administering this aspect of the payment.

To receive the room and board part of the payment from the Basic Care Assistance Program, the client must be receiving Medicaid and must meet functional requirements. The Economic Assistance Division is responsible for administering the Basic Care Assistance Program.

This bill proposes to require individuals applying for assistance under the Basic Care Assistance Program to apply for and, if eligible, to receive

benefits under the Medicaid program. In addition, page 2 of the bill, lines 1-7, proposes to require individuals to apply for and receive, if eligible, any Supplemental Security Income or Social Security Disability benefits to assist with paying the cost of room and board in a licensed basic care facility. The amendments also propose to remove language regarding stipulations before July 1, 1995, which are no longer applicable.

The bill also adds a new chapter to Title 50 of the Century Code relating to expanded service payments for the elderly and disabled (ExSPED). This chapter is being created to separate ExSPED from the provisions of the Century Code related to basic care. The service eligibility criteria are different from basic care and the separation of the two chapters will assist in administering these two programs. The new chapter more clearly defines the services available under ExSPED, the Department's powers and duties, the counties' powers and duties, and the applicant's or guardian's duty to establish eligibility.

To update the financial eligibility, definitions have been changed throughout the bill.

This concludes my testimony. I would be happy to answer any questions you may have.

FUNCTIONAL and FINANCIAL ELIGIBILITY REQUIREMENTS COMPARISON

North Dakota Department of Human Services (1/2011)

Part of #1

<p style="text-align: center;">BASIC CARE LICENSED BY THE HEALTH DEPARTMENT</p>	<p style="text-align: center;">BASIC CARE BCAP- Room and Board</p>	<p style="text-align: center;">BASIC CARE MEDICAID STATE PLAN PERSONAL CARE (MSP-PC)</p>	<p style="text-align: center;">EXPANDED SERVICES FOR THE ELDERLY & DISABLED (EXSPED)</p>
<p>Service Room and board Health, social, and personal care consistent with the resident assessment and care plan. These services shall be provided on a twenty-four-hour basis and shall include assistance with activities of daily living and instrumental activities of daily living, provision of leisure, recreational, and therapeutic activities, and supervision of nutritional needs and medication administration.</p>	<p>Services • Room and Board Payment Room and Board Payment: Includes property, food, utilities, other plant, and other direct and indirect cost.</p>	<p>Service • Personal Care Services Personal Care Service: Assistance with activities of daily living (ADLs) such as bathing, dressing, toileting, transferring, eating, mobility and incontinence care and with instrumental activities of daily living (IADLs) may be provided in conjunction with the tasks for ADLs.</p>	<p>Services • Adult Day Care • Adult Foster Care • Chore • Emergency Response • Environmental Modification • Family Home Care • HCBS Case Management • Homemaker • Respite • Non-Medical Transportation Functional Eligibility Not severely impaired in ADLs: Toileting, Transferring, Eating And Impaired in 3 of the 4 following IADLs: • Meal Preparation • Housework • Laundry • Medication Assistance Or Have health, welfare, or safety needs, including requiring supervision or structured environment</p>
<p>Requirements Based on Licensing Rules CHAPTER 33-03-24.1 Governing Body, Fire Safety (Based on slow evacuation index), Education Programs, Resident Assessments and Care Plans, Resident Records, Personal Care Services, Pharmacy and Medication Administration Services, Social Services, Nursing Services, Dietary Services, Activity Services, Housekeeping and Laundry Services General Building Requirements</p>	<p>Functional Eligibility Not severely impaired in ADLs: Toileting, Transferring, Eating And Impaired in 3 of the 4 following IADLs: • Meal Preparation • Housework • Laundry • Medication Assistance Or Have health, welfare, or safety needs, including requiring supervision or structured environment</p>	<p>Functional Eligibility Impaired in 1 ADL Or Impaired in 3 of the 4 following IADL's • Meal Preparation • Housework • Laundry • Medication Assistance</p>	<p>Functional Eligibility Not severely impaired in ADLs: Toileting, Transferring, Eating And Impaired in 3 of the 4 following IADLs: • Meal Preparation • Housework • Laundry • Medication Assistance Or Have health, welfare, or safety needs, including requiring supervision or structured environment</p>
<p>Financial Eligibility Private Pay Or Medicaid Eligible</p>	<p>Financial Eligibility Medicaid Eligible</p>	<p>Financial Eligibility Medicaid Eligible</p>	<p>Financial Eligibility Medicaid Eligible</p>
<p>Program Cap Private Pay: Each facility sets rate (minimum rate must = Medicaid's rate) Medicaid Eligible- Facility specific based on historical cost of the facility</p>	<p>Program Cap Daily Rate Per/day Average for Room and Board- \$50.95</p>	<p>Program Cap Daily Rate Per/day Average for MSP-PC --\$41.07</p>	<p>Program Cap \$1930.00 per month</p>