15.0304.02000

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Amendment to: HB 1039

1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 changes substance abuse definitions for residential treatment coverage.

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.*

The current NDPERS medical benefits cover the substance abuse / mental health services in this bill, and BCBS has indicated it has expanded coverage to include all appropriate levels of the American Society of Addiction Medicine (ASAM) for medically necessary and appropriate residential treatment for substance abuse admissions, for adolescents and adults. As a result, this cost was already built into the July 1, 2015 RFP.

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3900
Date Prepared: 01/05/2015

15.0304.01000

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Bill/Resolution No.: HB 1039

1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
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Townships			

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The current NDPERS medical benefits cover the substance abuse / mental health services in this bill, and BCBS has indicated it has expanded coverage to include all appropriate levels of the American Society of Addiction Medicine (ASAM) for medically necessary and appropriate residential treatment for substance abuse admissions, for adolescents and adults. As a result, this cost was already built into the July 1, 2015 RFP.

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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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3900
Date Prepared: 01/05/2015

2015 HOUSE HUMAN SERVICES

HB 1039

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1039
1/13/2015
Job #21902

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

Alternative health insurance coverage of substance abuse treatment and to provide for application.

Minutes: Testimonies 1 and 2

Chairman Weisz opened the hearing on HB 1039.

Jennifer Clark: From Legislative Council went through the amendment she passed out. See (Handout #1)

Rep. Oversen: Can you repeat what you said about separating mental health and substance abuse?

Clark: Under existing law we say that mental health in-patient treatment needs to be provided for minimum of 45 days. Those 45 days takes into account your in-patient care as well as your substance abuse treatment. My understanding of my directive was in substance abuse was, don't have days. I took it out there. Does it need to be done? No. Is it possible taking out the number of days is not what we need to do to get to be equal to what the federal law is doing? Yes that is possible. We may need to reconsider that.

Chairman Weisz: Because of the changes should it have a (inaudible)?

Clark: Yes it is possible.

Rep. Porter: The comment on page 4 regarding PERS. They state that everything in the bill was already built into their July 15 RFP. Was that discussed in the committee or did this information come up as the bill was introduced?

Clark: That information came out after the committee acted.

Rep. Porter: The fiscal note looks like that date doesn't matter.

Clark: If the (inaudible) person interprets the changes made here, then maybe the committee accomplished what they meant to.

Kurt Snyder: Executive Director of Heartview Foundation testified in support of the bill. (See Testimony #2)

23:00 Rep. Porter: How did your group deal with the development of HB 1039?

Snyder: We were unaware that they took this action. We testified on the backend of the Attorney General's opinion who stated parity was not being followed and changes within the insurance coverages. We were never contacted again for input on this bill.

Rep. Porter: Do think this bill is in response to the Attorney General's opinion to fix the parity?

Snyder: I think it is complicated and mix of things that brought this forward. We had a previous mandate that was very confusing as it had one set of rules and a set of alternative rules. So it needed to be cleaned up and it didn't follow the federal regulations of Affordable Care Act. Parity says you cannot have limits for days. When you put limits or special conditions on it, that is against the rules. Part of it was as we are trying to serve the people of our state, we are struggling with the covered benefits.

Rep. Mooney: In Section 2d on page 2 of your testimony where you are saying that you would argue that outpatient treatment is outside the scope of services for these professionals and goes on from there. Do you have language you would like to recommend as an adjustment to what is in the bill?

Snyder: I don't have specific language ready. I believe that diagnosis and evaluation falls within the scope. In outpatient treatment there are standards of care and treatment plans and the need to be followed by ND law. That just doesn't exist within there. I would suggest it could remain diagnosis evaluation, but omit treatment services and put at the end of it the same thing the other three have.

Rep. Hofstad: The days of service; how do you match as a provider the days of service and get reimbursed by the company? What is that magic mix?

Snyder: It is a cooperative collaboration of us providing care for their members. We provide clinical information that shows the need for that level of care. They can approve or deny it. We have processes for peer reviews if we don't agree with the decision. Or, we can say no this is the best level of care and we provide it. The days of service depend upon the impairment of the individual and the progress they make.

Rep. Hofstad: How successful have you been in that collaboration and what is your expectation of success in dealing with private providers?

Snyder: We need insurance providers and they need us. We are committed to move forward and work with them and be good stewards of our members' money.

Rep. Rich Becker: I'm concerned with the state of ND the ability of our health care providers. Even with the changes you are recommending, is this just a band aid until the next session?

Snyder: The fix would be that we would mandate that they cover the level of care accepted. If they funded the grid we could serve the people with need.

No Opposition

Rebecca Ternes: Deputy Insurance Commissioner at the Insurance Dept. here to provide some facts. Parity and EHB are completely separate issues in the government. Parity was brought into the ACA through essential health benefits or EHB. Regarding question of the Attorney General's (AG) opinion and what went on there; the question had to do with the age 21 restriction on one of our mandates. That issue has been taken care of through the filing of 2015. The carriers follow the EHB. They didn't do anything wrong. It was a mistake in the submission and approval of the federal secretary of HHS and approving the EHB plan we had. We are still asking the federal government about this piece of legislation. Any changes to mandates after our EHB selection which was for 2014, 2015 and 2016 will be charged to the State of North Dakota. The carriers and policy holders will not cover it. North Dakota will have to pay for any increases in mandates. Is this a mandate change that would cost the state money and therefore should have a fiscal note on it. I'd like to research the PERS question as well. The Milliman study gives it to PERS for two years. PERS is a plan that is submitted at the state level. They have to meet state mandates right now. That could mean that the plan would have to meet it, but the carrier that has the plan may not get paid for the added benefit as well. We would like to look into this more.

Chairman Weisz: PERS will already be implementing this.

Rebecca: This is a grandfathered plan. These changes are made on the 21 issue. This will change all plans going forward.

Chairman Weisz: Does that change the PERS grandfathered status?

Rebecca: No.

Rep. Fehr: If we reject this bill what is the implication of that? If Obamacare gets over turned, what is the implication of that?

Rebecca: I would not characterize this bill as meeting federal law. The department would most likely make a different change. You would have to ask where this bill came from as it is not the department's bill. I don't think they can repeal this.

Chairman Weisz closed the hearing on HB 1039.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1039
2/11/2015
Job #23650

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: Looking at HB 1039. We asked for a Milliman study on that and we should have all received that or not? (Committee members said they never got it.) I had gotten e-mail. You should all be able to look at the study. I don't want to act on it until you have seen the study. I thought everyone had a copy of it. We are going to recess. I'll find out what happened to the study and make sure you have it by the afternoon.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1039
2/17/2015
Job #23983

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes: Attachment #1

Chairman Weisz: Let's look at 1039. I'm going to hand out the Milliman Report. (See Handout #1) This is the study that came back on substance abuse coverage. If you look on page 3 of the study that gives the range of 81 cents to up to $2.16. The mandate doesn't seem to be under the ACA. Any State mandates put into place after the law went into effect are a 100% State responsibility. There is one suggestion for an amendment to fix something on page 2. They wanted us to eliminate the language, "national register of health" found on line 20.

Rep. Porter: On page 1, line 24, I wrote down it should be 7509. (An administrative code.) 50-31 is the treatment program licensure not the individual. On page 2 on lines 13, 14 and 15, it talks about in case of coverage for residential treatment the benefits must be provided by an addiction treatment program licensed under 50 with is human services. That was the reference on page 1, line 24 was to the facility licensure. Maybe that should go to the professional licensure in chapter; I don't know which one. They are both talking about treatment programs. On page 3 he referenced on the top off from line 4 that they wanted that to be 7509.105. They are licensed under the Century Code, that is just the administrative rules to the licensure.

Chairman Weisz: Maybe it should 5031-02.

Rep. Porter: I don't think it is right that it goes into the administrative code. Maybe 5031 would need to expand that to be exact to the residential treatment program.

Chairman Weisz: We are certainly talking about the programs that are licensed under that chapter. I don't know why you would want to change that. This bill adds individual and it adds the residential treatment. The administrative code will define what the requirements are for the licensure. But, the licensing is done under 50-31.

Rep. Porter: I'm comfortable with whatever amendment you recommend.

Rep. Fehr: Back in the 80's that reference was in there and it required an extra year of practice. In 1997 or 1998 we added the residency requirement of one year. You don't

have need for this old reference. It was promoted back in the 80's and many people like me never joined on because it required paying a membership fee every year I didn't feel like shelling out money.

Chairman Weisz: So you would eliminate the whole "or a 20 and 21"?

Rep. Fehr: On line 20, I would eliminate, "who is eligible for listing in the national register of health service providers in psychology".

Rep. Porter: You would have to start on line 19 at the end, "or a".

Chairman Weisz: You leave, "or a licensed psychologist" and start with "who".

Rep. Fehr: I Motion.

Rep. Porter: I second that Motion.

VOICE VOTE: MOTION CARRIED

Rep. Porter: Ms. Ternes from the Insurance Dept. did testify that they weren't clear if this one was going to be the State's responsibility or if that would be cleared up between the hearing date and now. It still is an unknown.

Chairman Weisz: I don't think it is clear because they don't have an answer.

Rep. Hofstad: Are we saying by adding this language that this is now part of the essential health benefits?

Chairman Weisz: No. If we add the language we are going to be in compliance with the current essential health benefit. The argument is that essential health benefits says this is the coverage that is required so our State law is at odds with what the essential health benefits says has to be covered.

Rep. Porter: In the fiscal note, PERS is saying that it is already built into the costs. Did anyone talk about the medal plans and what the impact is going to be to just the basic medal plans. Do the basic medal plans cover a component of this treatment program? Or is this a new mandate on the medal plans?

Chairman Weisz: I believe the medal plans already have this in there. Maybe we need to get Ms. Ternes back down.

Rep. Porter: As you look at the Milliman study, if it is already included in the medal plans, then their cost component should be either zero or this is the cost on top of the existing medal plans.

Chairman Weisz: The grandfathered plans that could already be in place don't have to have that. So the Milliman study would only have looked at changing from one plan to the other. I'll get Rebecca to come down.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1039
2/17/2015
Job #24003

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: 1039, this has to do with residential treatment.

Rebecca Ternes: Deputy insurance commissioner. We need an amendment. We have some really old plans in ND. You probably remember names like Golden Rule Insurance Company. They have closed their blocks of business and have been gone from the state for a while. They had an older product called an individual guaranteed renewable product. So if you bought that product when they were still here and selling, you were guaranteed renewable. When they told us they wanted to close all their blocks, we told them you can close your blocks, but if you have a guaranteed renewable block, you have to leave those open. Anybody who wants to be there can stay there. Those still exists and we estimate there are under 100 people on those blocks. If we leave the bill the way it is, those blocks would be faced with an unreasonable requirement. By federal law they can't change their benefits and this would require them to add a benefit that they don't currently have. We would like an exemption for those people.

Chairman Weisz: Can you come up with some language to fix that part?

Ternes: Yes.

Chairman Weisz: Adding the language won't have any effect on the essential health benefits, correct?

Ternes: Correct. It is not a mandate under the federal eyes and it is not something the state would have to pay for.

Chairman Weisz: We will get that language from the department tomorrow.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1039
2/18/2015
Job #24065

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes: *Attachment #1*

Chairman Weisz: Let's take up 1039. The Insurance Dept. had some issues with grandfathered policies. This is language they have done that fixes the problem. (See Attachment #1)

Rep. Hofstad: I would Move the amendment.

Rep. D. Anderson: Second.

Rep. Damschen: (Microphone off and inaudible.)

Chairman Weisz: They got the number right at least. When we added individual on line 12 that is when all of sudden they became part of the problem.

VOICE VOTE: MOTION CARRIED

Rep. Hofstad: I Move a Do Pass as Amended on HB 1039.

Chairman Weisz: Did we eliminate the language on page 2?

Rep. Hofstad: I would rescind my Motion.

Chairman Weisz: I'll entertain a Motion that on page 2, line 20 and 21 it would eliminate "who is eligible for listing on the national register of health service providers in psychology".

Rep. Porter: I Move the amendment.

Rep. Hofstad: Second.

VOICE VOTE: MOTION CARRIED

Rep. Hofstad: I Move a Do Pass as Amended on HB 1039.

Rep. Seibel: Second.

ROLL CALL VOTE: 12 y 1 n 0 absent

MOTION CARRIED

Bill Carrier: Rep. Rich Becker

15.0304.01001
Title.02000

Adopted by the Human Services Committee

February 18, 2015

2/18/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1039

Page 1, line 12, after "individual" insert ", except for an individual guaranteed renewable policies issued before July 1, 1997"

Page 2, line 20, overstrike "who is eligible for listing on the national register of health"

Page 2, line 21, overstrike "service providers in psychology"

Renumber accordingly

Date: 2-17-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1039

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See description below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Fehr Seconded By Rep. Porter

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Voice Vote
Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

remove "who is eligible for listing on the national register of health"

Date: 2-18-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1039

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Hofstad Seconded By Rep. D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson	Voice Vote				
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert	Motion Carried				
Rep. Porter					
Rep. Seibel					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

page 1 line 12 after individual insert, except for individual guaranteed renewable policies issued before July 1, 1997.

Date: 2-18-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1039

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Voice Vote
Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

eliminate "who is eligible for listing on the national register of health service providers in psychology."

Date: 2-18-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1039

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Hofstad Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad	✓		Rep. Muscha	✓	
Rep. Bert Anderson	✓		Rep. Oversen	✓	
Rep. Dick Anderson	✓				
Rep. Rich S. Becker	✓				
Rep. Damschen	✓				
Rep. Fehr	✓				
Rep. Kiefert	✓				
Rep. Porter		✓			
Rep. Seibel	✓				

Total (Yes) 12 No 1

Absent 0

Floor Assignment Rep. Rich Becker

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

REPORT OF STANDING COMMITTEE

HB 1039: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1039 was placed on the Sixth order on the calendar.

Page 1, line 12, after "individual" insert ", except for an individual guaranteed renewable policies issued before July 1, 1997"

Page 2, line 20, overstrike "who is eligible for listing on the national register of health"

Page 2, line 21, overstrike "service providers in psychology"

Renumber accordingly

2015 SENATE HUMAN SERVICES

HB 1039

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1039
3/11/2015
24680

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to health insurance coverage of substance abuse treatment

Minutes: No attachments

Chairman Judy Lee opened hearing, but recess until after the Senate Floor Session.

Jennifer Clark, Legislative Council, testified neutral for HB 1039. This bill came out of the Health Care Reform Review Interim Committee. There was testimony regarding the health care delivery system from the Affordable Care Act that the insurance coverage for substance abuse treatment was either not in compliance with the Affordable Care Act, or perhaps it wasn't in compliance with the essential health benefits. The biggest concern raised was how the insurance policies were treating residential treatment. There was an attorney general's opinion on this issue. At the end of the day, it would be ideal if the state law reflected the state-of-the law. This bill may not do that. The bill was amended in the House. She is not sure the bill takes care of the concerns for what insurance companies are required to do for substance abuse, and as a side, also covering behavioral and mental health. We have a companion section in the insurance law that addresses mental health coverage. It is quite similar to this law, but it wouldn't necessarily be a bad idea to address the mental health to also make sure what federal law says. This is very complicated. There is Health Insurance Portability and Accountability act (HIPAA), and the guaranteed renewable, and that is the change made in the House, where they considered whatever we do their, don't apply it to the guaranteed renewable policies. This section for substance abuse coverage applies to group health policies, and as the bill has changed, it is for all policies. There are so many players - large groups, small groups, individuals. If what the intent of the interim committee was, the intent was to change the law so there aren't conflicts when it comes to parity. This bill needs work, or step back and don't touch it. She has a concern that it may increase some coverage or decrease coverage for others. This mandate for substance abuse coverage we have applies to group plans. We have expanded that to individual plans. And in the House they carved out the guaranteed renewable policies. We add in that the benefits of these plans must be provided for inpatient treatment, treatment by partial hospitalization, and outpatient treatment - we've added residential treatment.

Chairman Judy Lee recognized the House deleted the information regarding the number of days. Was that the effort to match Affordable Care Act?

Ms. Clark stated the intent was to change the law to reflect the federal law requirements, Affordable Care Act and parity. The number of days may not even be valid when it comes to parity. Ms. Clark continued walking through HB 1039.

(12:20)
Senator Warner not sure he understands the concept of parity relative to residential treatment of drug addiction. Is that parity to residential treatment of something on the medical side.

Ms. Clark explained in regards to the federal legislation to the parity law is you are taking the substance abuse and mental health and comparing it to more traditional medical. It should be treated the same to each other as well.

OPPOSITION to HB 1039
No opposed testimony

NEUTRAL to HB 1039
Megan Houn, Blue Cross Blue Shield has worked closely with the department with updating their filings of mental health parity. They have already made the changes.

Senator Howard Anderson, Jr. specific day requirements, how does that affect what you now have under the requirements.

Ms. Houn deferred. It doesn't affect us.

Chairman Judy Lee asked Ms. Houn that you don't think we need to get into the details of the bill?

Ms. Houn indicated that is correct - we work closely with the Insurance Department.

Rebecca Ternes, Deputy Insurance Commissioner, stated the bill did come out of the interim committee and all very involved with it. There was a final rule for mental health parity continued implementation for essential health benefits. They are both federal requirements, but they are distinct and separate. There are also state mandates that are included in the essential health benefits and this is one of those mandates. This does repeal the optional coverage that could be allowed for substance abuse, and that is where the residential came in so we don't need that anymore because we wrote that in as a requirement for all of this type of coverage. Repealing the days does actually lower the requirement because there is no requirement for days. However, because the essential health benefits plan does have a day requirement, any new plans that come in will have to be what the essential health benefits plan states.

Senator Axness asked what the day limits on the electronic health benefits are.

Ms. Ternes is unsure, and it would be separate for each filings.

Ms. Ternes continued. We didn't talk a lot about the mental health in the interim committee. We did talk about the age 21 restriction. Mental Health parity says, if you offer something on the major medical side, then you must do the same for mental health and substance abuse side, and there are no age restrictions on the major medical side, so that had to be removed, a discriminatory practice. With regards to mandates, we have state mandates that have been here for a long time, and then consider new mandates, and the House requested study. The study shows an impact from $.81 per member per month up to a potential up to $2+. This is not considered a mandate because of the federal Affordable Care Act; if it were, the state would have to pay for those added benefits.

Senator Howard Anderson, Jr. I'm hearing from Ms. Clark that some of them we could use, some we need, some we don't. Are there things we really need to do?

Ms. Ternes the Department doesn't have a strong position on the bill because we have taken care of the mental health / essential health benefits parity issues, so the companies are all complying to the requirements. With the loss of the days, this was not discussed in the interim committee. If a new grandfather policy came in, you wouldn't have a minimum number of days, so you could be reducing benefits by doing that. She is not sure about the harm in leaving the days in.

Senator Howard Anderson, Jr. maybe we should repeal 08 and 09 altogether if it is taken care of in other areas.

Ms. Ternes indicated you could do that, it wouldn't change the essential health benefits because that is set at the federal level. But you would potentially reduce services for grandfather plans. This set of mandates, and should something change at the federal level, the state has been comfortable with these mandates for quite some time. At a minimum, this is what needs to be in every major medical policy.

V. Chairman Oley Larsen asked the history of where the days came from? Who figured out that in 28 days, you are going to be cured or is it insurance driven.

Ms. Ternes guesses it is based on standard of care in the industry. Medical directors and insurance providers usually collaborate and come up with the allowable charges. It's not arbitrary.

V. Chairman Oley Larsen stated we have the Affordable Care Act on the exchange plans that have to meet the benefits, if you are not going to be on the marketplace and you go off and get on a private plan, it is still the marketplace plan. There are no other plans.

Ms. Ternes indicated the majority of North Dakota people are still insured on grandfathered plan and does not meet the Affordable Care Act requirements. You can bring on a new grandfathered plan as long as it meets certain requirements. The reason you would go to the marketplace is for the subsidy.

V. Chairman Oley Larsen asked how long will they be on the grandfather plans and is the NDPERS state new Sanford grandfathered?

Ms. Ternes yes, the new plan under Sanford will be a "grandfathered" plan. They are not going away as quick as they thought. North Dakotans like the plans they are on.

V. Chairman Oley Larsen would you agree as long as the premium stays low, will that make a difference if they are increased.

Ms. Ternes don't know if we are going to see the increase. Any time you raise premiums, you make it more difficult for people to pay for it. It is no longer the cost of insurance but the cost of the deductibles. Most people are mandated by law to have insurance.

Rod St. Aubyn, responded to question regarding the days. The 08 and 09, the state faced the giant meth problem. The attorney general put together a task force. One of the things they came up with was the residential treatment. At Blue Cross Blue Shield, we opposed any new mandates. The 08.01 was an alternative mandate. So as an insurance mandate, you could do either 08 or 08.01. The 08 mandated the number of days, and it was really a compromise with a residential treatment. They could then reduce the number of inpatient and outpatient laws, so that is how 08.01 evolved. He thinks Blue Cross Blue Shield was the only insurance that provided residential treatment.

Closed Public Hearing

Senator Howard Anderson, Jr. asked is there anything we need to do with the bill.

Senator Axness stated that no one was here that runs those facilities that whatever was happening is taken care of.

Pamela Sagness, Department of Human Services, at the previous hearings, there were private providers that were here and had concerns.

Senator Howard Anderson, Jr. if they were here and had concerns, either the House passed it over the concerns or the House fixed the concerns.

Ms. Sagness concerned about the insurer that there would be coverage.

Rebecca Ternes answered Senator Howard Anderson, Jr. question - some of the providers were here on the house side and had concerns. Were there concerns satisfied. Ms. Ternes indicated that Kurt Snyder was here, offered support but had concerns. He also supported adding more residential treatment, which could put us in position of more mandates. He was asked if had presented to the interim committee and he had.

Senator Howard Anderson, Jr. so this is where we landed. So does this fix something from the House?

Ms. Ternes indicated this is not an agency bill, not involved in the final drafting of the bill, so neutral. Many of the concerns that came up in the interim have been taken care of through the federal rules and filings to her office.

Senator Howard Anderson, Jr. moved the Senate Human Services Committee recommend a DO NOT PASS to HB 1039. The motion was seconded by **Senator Dever**.

Discussion
V. Chairman Oley Larsen when we try to be parallel with the feds, if we try to provide more coverage, we end up paying for it. As a state, we don't need to pay more than what the feds set up.

Senator Warner indicated he will resist the motion only because he wants a long discussion. When in doubt, do do not pass.

Senator Howard Anderson, Jr. couldn't find anybody that we are trying to accomplish anything. They have all been solved.

Chairman Judy Lee asked do we need to update the statute because of all the filings with the feds.

Ms. Ternes indicated the federal law preempts the state law. We could be going backwards for grandfathered plans.

Roll Call Vote to DO NOT PASS
6 Yes, 0 No, 0 Absent. Motion passes.

Senator Howard Anderson, Jr. will carry HB 1039 to the floor.

Date: 03/11 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1039

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Anderson Seconded By Sen Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Anderson

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

REPORT OF STANDING COMMITTEE

HB 1039, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1039 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1039

HB1039
January 13, 2015 Jennifer Clark #1

26.1-36-08.1. Alternative group health policy and health service contract substance abuse coverage.

1. As an alternative to the substance abuse coverage required under subsection 2 of section 26.1-36-08, an insurance company, a nonprofit health service corporation, or a health maintenance organization may provide substance abuse coverage under this section.

2. The provisions of section 26.1-36-08 apply to this alternative, except:

a. In addition to the inpatient treatment, treatment by partial hospitalization, and outpatient treatment coverage required under section 26.1-36-08, the coverage must include residential treatment.

b. In the case of coverage for inpatient treatment, the benefits must be provided for a minimum of forty-five days of services covered under this section and section 26.1-36-09 in any calendar year.

c. For the purpose of computing the period for which benefits are payable for a combination of inpatient and partial hospitalization, no more than twenty-three days of inpatient treatment benefits required under subdivision a may be traded for treatment by partial hospitalization.

d. In the case of coverage for residential treatment, the benefits must be provided for a minimum of sixty days of services covered under this section in any calendar year. This residential treatment must be provided by an addiction treatment program licensed under chapter 50-31. If an individual receiving residential treatment services requires more than sixty days of residential treatment services, unused inpatient treatment benefits provided for under subdivision b may be traded for residential treatment benefits. For the purpose of computing the period for which benefits are payable, each day of inpatient treatment is equivalent to two days of treatment by a residential treatment program, provided that no more than twenty-three days of inpatient treatment benefits required by this section may be traded for residential treatment benefits required under this section.

Source. S.L. 2003, ch. 255, § 2.

#2

Dear Chairman Weisz and Members of the Committee,

HB 1039

1/13/15

My name is Kurt Snyder and I am the Executive director of the Heartview Foundation. I am here to testify in support of HB 1039 on behalf of the Heartview Foundation, North Dakota Addiction Counselors Association and the North Dakota Addiction Treatment Providers Coalition. We offer our support but do have considerable concerns about the bill.

Before I address our concerns I wanted to point out a few items to provide background.

- The "Schulte Report" which was completed in July of 2014 made clear that North Dakota is in a dire situation without available mental health and addiction services and an incredible workforce shortage. It is an official report to the legislature and makes clear the liability of inaction.
- The report highlights six major areas of concern. One of the six is "Insurance coverage changes needed". In this area it points out that ND Century Code is inconsistent with current Essential Health Benefits (EHB) package selection.
- The report goes on to recommend that we need to re-evaluate EHB package selection and the unintended consequences.
- The Behavioral Healthcare Stakeholders Group which included senators, representatives, insurance providers, and a comprehensive group of professionals and concerned citizens took this issue and recommended that North Dakota adopt the American Society of Addiction Medicine core grid of services and work with insurers to fund the grid. We have this core grid outlined in chapter 75-09 which outlines licensure for substance abuse treatment programs in North Dakota.

The Attorney General issued an opinion that highlighted that insurance providers were not complying with the ACA and federal laws on mental health and addiction parity issues. This opinion was targeted at the benefit package offered by insurers and the lack of appropriate coverage of residential addiction services in North Dakota.

HB 1039 attempts to address these issues but we see the following problems:

- In Section 1., 2. Residential treatment is added which we support. However there are multiple levels of care within each of these categories that are essential. For example, outpatient has two levels and residential has four. We would offer the added language, "The benefits must be provided in accordance with chapter 75-09.1 for inpatient, treatment by partial hospitalization, residential treatment, and outpatient." However the wording, we want to ensure that benefits are comprehensive and follow North Dakota requirements for licensure.
- In section 1., 2., a. the bill erroneously refers to "licensed under chapter 50-31. (I believe it should be chapter 75-09.

1

Part of #2 HB1039
January 13, 2015

- Section 2., d. states, "In the case of benefits provided for outpatient treatment, the diagnosis, evaluation, and treatment services must be provided within the scope of licensure by a licensed physician or a psychologist who is eligible for listing on the national register of health service providers in psychology,.." I would argue that outpatient treatment is out-side of the scope of services for these professionals. And at the very least the psychologist should be more than just "eligible" for listing. Section 2., d. is also missing the statement that the benefits must be provided an addiction treatment program licensed under chapter 75-09. This statement is included in a., b., and c. of this section that reference inpatient, residential, and partial hospitalization.
- Section 2. F. loosely describes partial hospitalization and includes the statement "services provided by licensed professionals under the supervision of a licensed physician." This is inconsistent with chapter 7509.1-05 which defines partial hospitalization including provider criteria.

- There is no requirement of supervision by a licensed physician. This would significantly impede access to care for this level of care throughout the state.

Addiction is a chronic illness that is treatable and a comprehensive healthcare package allows for matching the level of need or impairment with the appropriate intervention. Having gaps in needed services is directly related to the utilization of high cost healthcare, overcrowding in our jails and prisons, domestic violence, lost work productivity, broken families, loss of life and so much more.

I thank you for your time and encourage your support of this bill with full considerations of our concerns and recommended changes.

I would be happy to answer any questions.

Kurt Snyder
Executive Director
Heartview Foundation
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701-426-8677
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#1

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2-17-15

February 3, 2015

Sheila M. Sandness, CPA
Senior Fiscal Analyst
North Dakota Legislative Council
600 E Boulevard Avenue
Bismarck, ND 58505-0360

Re: Analysis of House Bill No. 1039

Dear Ms. Sandness:

Thank you for your email of January 20, 2015 requesting a cost-benefit analysis of the mandates included in House Bill No. 1039. In accordance with North Dakota Century Code (NDCC) 54-03-28, you asked that we provide information to help determine the following:

a. The extent to which the proposed mandate would increase or decrease the cost of the service;
b. The extent to which the proposed mandate would increase the appropriate use of the service;
c. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds; and
d. The impact of the proposed mandate on the total cost of health care.

This letter is intended for use by North Dakota legislators and officials for the purpose of considering this proposed legislation. This letter should not be used for other purposes. To the extent that this letter is not subject to disclosure under public records laws, this document should not be distributed to third parties without Milliman's prior written consent. This document may only be released in its entirety. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work.

The results in this letter are technical in nature and are dependent upon specific assumptions and methods. No party should rely upon these results without a thorough understanding of medical insurance policies and how they are priced. Such an understanding may require consultation with qualified professionals.

In doing our work, we have relied on the data and information cited in this letter. This information includes the House Bill referenced in your email and various follow up emails between us. If there are changes to the bill, the comments here may no longer be appropriate. This letter is subject to the Professional Services Contract between the State of North Dakota and Milliman executed on December 30, 2014.

Guidelines established by the American Academy of Actuaries require actuaries to include their professional qualifications in actuarial communications. I am a member of the American Academy of Actuaries and meet the qualification standards for performing the analysis in this letter.

Background

House Bill No. 1039 proposes an Act to amend and reenact sections 26.1-36-08 and 26.1-36-09 of the North Dakota Century Code (NDCC) regarding health benefit coverage for substance abuse treatment. The bill also proposes to repeal section 26.1-36-08.1 of the NDCC regarding alternative coverage of substance abuse treatment.

The proposed changes in the bill would require individual health insurance policies to cover substance abuse treatment, while such treatment is only required of group policies in the current NDCC. The bill also calls for residential treatment of substance abuse to be covered by all policy types.

The bill also proposes the removal of inside calendar year limits currently in section 26.1-36-08 of the NDCC (e.g. removing "benefits must be provided for a minimum of sixty days of services covered under this section and section 26.1-36-09 in any calendar year" for inpatient treatment). Cost sharing parity is federally required when coverage is mandated. Therefore, the removal of these limits in the statute does not generate additional costs beyond those created by the federal requirements once coverage is added.

Analysis

The impact of adding coverage requirements depends on the degree to which the new requirements are already covered, on a voluntary basis, by some carriers. In our analysis, we have examined the cost of adding the newly required coverage as though it was not currently covered by any carriers. These costs will be dampened if such coverage is already offered in some plans. Naturally, plans that already offer this coverage would not experience any change in cost as a result of this bill.

Residential Treatment

We calculated the average cost for North Dakota residents using the 2014 Milliman *Commercial Health Cost Guidelines*™, trended to 2015, to estimate the cost of adding these services. House Bill No. 1039 proposes a requirement for all contracts, including those on an individual, group, blanket, franchise, and association basis, to cover residential treatment. We estimate coverage of residential treatment for substance abuse to cost approximately $0.73 per member per month (PMPM) in 2015. If we assume a 10% load for margin and administrative expenses, the cost of coverage for residential treatment of substance abuse would increase to $0.81 PMPM ($0.73 divided by 90%). This cost estimate is summarized in Table 1 below.

Table 1
Cost of Coverage for Residential Treatment of Substance Abuse

	PMPM Cost
Residential Treatment	$0.73
Administrative and Margin Load (10%)	$0.08
Total	$0.81

The cost of coverage will increase as carriers offer benefits such as broad networks and out-of-network coverage. This is especially true of residential treatment, where coverage of expensive treatment centers can have a significant impact on cost.

Individual Contracts – All Treatment Types

House Bill No. 1039 also proposes a requirement for individual contracts to cover substance abuse treatment, including residential treatment. We estimate substance abuse coverage for individual contracts to cost approximately $1.73 PMPM in 2015. Administrative expenses on a percent of premium basis are not expected to increase as a result of this bill. If we assume a 20% load for margin and administrative expenses (individual plans typically having a higher load than group plans), the cost for substance abuse coverage would increase to $2.16 PMPM ($1.73 divided by 80%). This cost estimate is summarized in Table 2 below.

Table 2
Cost of Coverage for Substance Abuse Treatment

	PMPM Cost
Substance Abuse Claim Cost	$1.73
Administrative and Margin Load (20%)	$0.43
Total	$2.16

The figures presented in Tables 1 and 2 are allowed costs, including both the insurance company and patient liability. We expect the patient liability would typically be in the range of 10-30% of the cost, but could be less or more for very rich or lean benefit designs.

Conclusion

Our analysis shows that adding coverage for substance abuse treatment (including residential treatment) to individual contracts will cost approximately $2.16 PMPM and adding only residential treatment to substance abuse coverage to all other contract types will cost approximately $0.81 PMPM. This assumes a load for margin and administrative expenses of 10% of premium for group contracts and 20% for individual contracts. This also assumes that such coverage is not currently offered.

❖❖❖

Sheila, I hope this letter is helpful to you as you consider this bill. If you have questions regarding this letter, or would like us to do additional analysis, please feel free to contact me at (952) 820-2481 or leigh.wachenheim@milliman.com.

Sincerely,

Leigh M. Wachenheim

Leigh M. Wachenheim, FSA, MAAA
Principal & Consulting Actuary

LMW/dtd

#1

Prepared by the North Dakota
Insurance Department
February 18, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 1039

Page 1, line 12, after "individual" insert "except for individual guaranteed renewable policies issued before July 1, 1997,"

Renumber accordingly