

2023 SENATE HUMAN SERVICES

SB 2030

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Fort Lincoln Room, State Capitol

SB 2030
1/16/2023

Relating to value-based purchasing for medical assistance; to provide for a department of health and human services study of value-based purchasing for pharmaceuticals as a feasible option for the state; and to provide for a legislative management report.

10:39 AM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Supplemental rebates
- Valued based program
- Drug dosage
- Medicaid restricted drug classes

10:39 AM **Samantha Kramer, Court Advisor and Senior Counsel, Legislative Counsel** introduced SB 2030 in neutral verbally.

10:41 AM **Dr. Brendan Joyce, Clinical Services Director, Medical Services, Department of Health and Human Services** in favor #13499.

10:57 AM **Senator Hogan** moved to **Amend** the bill to remove Section One subsection Two .

10:57 AM **Senator K. Roers** seconded.

10:58 AM **Senator K. Roers** moved to further **AMEND** to strike on page 1 line 21 starting with the word by end and delete the rest of the section and subsection 2.

10:59 AM **Senator Hogan** seconded.

11:00 AM Roll Call Vote

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

11:00 AM **Senator Cleary** moved **D0 PASS** as **AMEDNDED**.

11:00 AM **Senator Hogan** seconded.

Roll call Vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

Senator Cleary carries SB 2030.

11:00 AM **Madam Chair Lee** closed the hearing.

Patricia Lahr, Committee Clerk

January 16, 2023

OK
1 of 1
1/16/2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2030

Page 1, line 2, remove "; to provide for a department of health"

Page 1, remove line 3

Page 1, line 4, remove "for the state; and to provide for a legislative management report"

Page 1, line 8, remove "**Report to legislative**"

Page 1, line 9, remove "**management**"

Page 1, line 21, remove "By April first of each even-numbered year, the"

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 10

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2030: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2030 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 2, remove "; to provide for a department of health"

Page 1, remove line 3

Page 1, line 4, remove "for the state; and to provide for a legislative management report"

Page 1, line 8, remove "Report to legislative"

Page 1, line 9, remove "management"

Page 1, line 21, remove "By April first of each even-numbered year, the"

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 10

Renumber accordingly

2023 HOUSE HUMAN SERVICES

SB 2030

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2030
3/7/2023

Relating to value based purchasing for medical assistance.

Chairman Weisz called the meeting to order at 9:03 AM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Vice Chairman Matthew Ruby not present.

Discussion Topics:

- Manufacturer contracts
- North Dakota Medicaid

Samantha Kramer, Assistant Code Advisor and Senior Council, for North Dakota Legislative Council, spoke in support.

Brendan Joyce, Clinical Services Director with the Department of Health and Human Services, supportive testimony (#22321).

Chairman Weisz adjourned the meeting at 9:14 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2030
3/7/2023

Relating to value based purchasing for medical assistance.

Chairman Weisz called the meeting to order at 9:52 AM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Vice Chairman Matthew Ruby not present.

Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on SB 2030.

Rep. Rohr moved a do pass on SB 2030.

Seconded by Rep. Anderson.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	AB
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 13-0-1.

Carried by Rep. Frelich.

Chairman Weisz adjourned the meeting at 9:54 AM.

Phillip Jacobs, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2030, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2030 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2030

Testimony
Senate Bill No. 2030
Senate Human Services Committee
Senator Judy Lee, Chairman
January 16, 2023

Chairman Lee, and members of the Senate Human Services Committee, I am Brendan Joyce, PharmD, Clinical Services Director with the Department of Health and Human Services (Department). I appear before you in support of Senate Bill No. 2030.

Senate Bill No. 2030 directs the Department to continue to pursue and participate in innovative and beneficial pharmacy program administration options, and specifically mentions value-based purchasing programs (VBP). VBPs are most simply explained as agreements for drug price concessions based on actual efficacy and outcomes. For instance, a drug may be approved as a gene therapy to cure a disease, and it costs \$3 million. The manufacturer and the state can enter into a VBP to where the state net cost for a successful outcome will cost \$2 million net of rebates, and a non-successful outcome will only cost \$1 million. There is no requirement for manufacturers to enter into any VBP with any state.

VBP programs are classified as a type of supplemental rebate. The Department currently participates in the Sovereign State Drug Consortium (SSDC) which is a multi-state supplemental rebate pool. The Department's participation in this pool has resulted in \$32 million in additional rebate dollars invoiced since the start of the ND Medicaid supplemental rebate program (4Q2015). The increasing importance of these supplemental rebates can best be shown by the increasing amount invoiced over time. For 2015-2019, the Department invoiced for \$9.16

million in supplemental rebates. For 2020-3Q2022, the Department has invoiced for \$23.5 million in supplemental rebates.

VBP programs as discussed here were formalized in federal rules in 2020. Through those Center for Medicare & Medicaid Services (CMS) rules, there are two ways for Medicaid agencies to enter into a VBP. The simplest is for manufacturers to submit a VBP offer to CMS, and then any state could choose to accept that agreement. This requires no state plan amendment with CMS and all states would be eligible to participate. There have been zero manufacturers to choose this option, and therefore no impact for states.

The second option is for states to submit a state plan amendment to CMS which allows the state to individually negotiate and contract with manufacturers for VBP agreements. Fifteen states have approved VBP state plans, and the Department will be submitting a VBP state plan amendment before the end of this current quarter. Having the ability to enter into a VBP doesn't guarantee any contracts will be offered or executed. Some of the 15 states with VBP state plans have zero VBP contracts, and the state with the longest history of VBP (since 2018 as they had a waiver before CMS completed the rules) currently only has two VBP contracts in place.

North Dakota Medicaid is one of the smallest Medicaid pharmacy programs in the nation. If the Department had not joined SSDC, our supplemental rebates would not be at their current level. SSDC has had discussions with manufacturers about VBP proposals and will request VBP proposals in their rebate solicitation notifications, but as of now, zero manufacturers have submitted VBP proposals to SSDC. The Department

has had discussions (one phone call) with one manufacturer about VBP, but no VBP offers have actually been proposed.

VBP has been put forth as a potential protection from hyper-expensive medications that are becoming more and more common. Based on what is actually happening, VBP has not provided a solution. The Department will make sure all options are available and we are in position and able to do what proves worthwhile for North Dakota.

With regard to Senate Bill No. 2030, the Department is in full support of Section 1. We believe Section 2 is potentially unnecessary and the intent of this Bill would remain unchanged if Section 2 was removed as the Department still has reporting requirements in Section 1 and our ability to enter into VBP agreements already exists.

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

Testimony
Engrossed Senate Bill No. 2030
House Human Services Committee
Representative Robin Weisz, Chairman
March 7, 2023

Chairman Weisz, and members of the House Human Services Committee, I am Brendan Joyce, PharmD, Clinical Services Director with the Department of Health and Human Services (Department). I appear before you in support of engrossed Senate Bill No. 2030.

Engrossed Senate Bill No. 2030 directs the Department to continue to pursue and participate in innovative and beneficial pharmacy program administration options, and specifically mentions value-based purchasing programs (VBP). VBPs are most simply explained as agreements for drug price concessions based on actual efficacy and outcomes. For instance, a drug may be approved as a gene therapy to cure a disease, and it costs \$3 million. The manufacturer and the state can enter into a VBP to where the state net cost for a successful outcome will cost \$2 million net of rebates, and a non-successful outcome will only cost \$1 million. There is no requirement for manufacturers to enter into any VBP with any state.

VBP programs are classified as a type of supplemental rebate. The Department currently participates in the Sovereign State Drug Consortium (SSDC) which is a multi-state supplemental rebate pool. The Department's participation in this pool has resulted in \$32 million in additional rebate dollars invoiced since the start of the ND Medicaid supplemental rebate program (4Q2015). The increasing importance of these supplemental rebates can best be shown by the increasing amount invoiced over time. For 2015-2019, the Department invoiced for \$9.16 million in supplemental rebates. For 2020-2022, the Department has invoiced for over \$26.5 million in supplemental rebates.

VBP programs as discussed here were formalized in federal rules in 2020. Through those Center for Medicare & Medicaid Services (CMS) rules, there are two ways for Medicaid agencies to enter into a VBP. The simplest is for manufacturers to submit a VBP offer to CMS, and then any state could choose to accept that agreement. This requires no state plan amendment with CMS and all states would be eligible to participate. There have been zero manufacturers to choose this option, and therefore no impact for states.

The second option is for states to submit a state plan amendment to CMS which allows the state to individually negotiate and contract with manufacturers for VBP agreements. Sixteen states have approved VBP state plans, and the Department will be submitting a VBP state plan amendment before the end of this current quarter. Having the ability to enter into a VBP doesn't guarantee any contracts will be offered or executed. Some of the 16 states with VBP state plans have zero VBP contracts, and the state with the longest history of VBP (since 2018 as they had a waiver before CMS completed the rules) currently only has two VBP contracts in place.

North Dakota Medicaid is one of the smallest Medicaid pharmacy programs in the nation. If the Department had not joined SSDC, our supplemental rebates would not be at their current level. SSDC has had discussions with manufacturers about VBP proposals and will request VBP proposals in their rebate solicitation notifications, but as of now, zero manufacturers have submitted VBP proposals to SSDC. The Department has had discussions (one phone call) with one manufacturer about VBP, but no VBP offers have been proposed.

VBP has been put forth as a potential financial protection for states from the increasing number of hyper-expensive medications. Based on what is happening in the Medicaid market, VBP has not provided a solution. The Department will make sure all options are available and we are in position and able to do what proves worthwhile for North Dakota.

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