

November 2009

UNMET HEALTH CARE NEEDS STUDY - BACKGROUND MEMORANDUM

The 2009 Legislative Assembly approved House Bill No. 1391 ([Appendix A](#)) providing for a Legislative Management study of the unmet health care needs in the state. The study must include an assessment of the needs of underinsured and uninsured individuals and families, consider federal health care initiatives, and include consultation with the State Department of Health, the Insurance Commissioner, and the Department of Human Services. Testimony regarding the bill indicated the study should identify the reasons individuals are uninsured or underinsured and how to make health insurance more accessible to North Dakota residents.

PREVIOUS STUDIES

The **1999-2000 Budget Committee on Health Care** studied the various challenges facing the delivery of health care in the state, including changes in hospital reimbursements, technological innovations, and the regionalization of services. The committee also studied health care access, quality, and cost to determine essential health care services, critical providers, and access sites and to identify geographic, demographic, and economic issues relating to health care. The committee also received a report from the Health Council on public input regarding health care needs and services. The committee received information regarding provider reimbursements, home health care, nurse practitioners, critical access hospitals, access and utilization of preventative care services, health insurance, and other health care issues.

The committee asked the Legislative Council chairman to request that the Department of Human Services discontinue the development of a prospective payment system for outpatient Medicaid services using ambulatory patient groups, that all changes to the current payment system for outpatient Medicaid services be delayed to allow the development and testing of ambulatory payment classifications by the Health Care Financing Administration, and that the department consider using ambulatory payment classifications in the development of a prospective payment system for outpatient Medicaid services in North Dakota. The chairman of the Legislative Council sent a letter to the Department of Human Services regarding the committee's request.

The **2001-02 Budget Committee on Health Care** studied the coordination of the medical assistance and children's health insurance programs, including the Department of Human Services' development of a single application form for both programs, whether the children's health insurance program should be administered by the state or the counties, the effects

of eliminating the asset eligibility requirement for the medical assistance program, the standardization of the definition of "income" for all programs administered by the Department of Human Services, and the feasibility and desirability of seeking a federal waiver to allow the children's health insurance program to provide coverage for a family through an employer-based insurance policy if an employer-based insurance policy is more cost-effective than the traditional plan coverage for the children. The committee received information regarding enrollment statistics and costs of North Dakota's children's health insurance program. Authorized by the 1999 Legislative Assembly, the program, named Healthy Steps, provides health insurance coverage to low-income children not eligible for Medicaid.

The committee made no recommendation as a result of its study of the coordination of the Healthy Steps and Medicaid programs.

The **2005-06 Budget Committee on Health Care** studied the need for a comprehensive long-range study of the state's current and future health care needs in order to address issues, such as the aging population of the state, the phenomenon of health care cost-shifting to the private sector, the trend of uncompensated health care services, shortages in the number of health care professionals, duplication of technology and facilities, and any other factors that might affect the health care system in North Dakota in the year 2020. The committee received information regarding a Health Resources and Services Administration federal grant program to study health insurance coverage in North Dakota. Research related to the study, which was completed in August 2006, was conducted by the University of North Dakota School of Medicine and Health Sciences Center for Rural Health. Based on the study findings, approximately 8.2 percent of North Dakota's population did not have health insurance, compared to the national rate of 15.2 percent. The North Dakota percentage represented about 52,000 residents of the state, including approximately 11,000 children under age 18. American Indians were far more likely to be uninsured (31.7 percent) compared to Caucasians (6.9 percent). Residents living in a household with an annual income of less than \$10,000 are twice as likely to be uninsured (16.6 percent), compared to the overall state rate of 8.2 percent.

The committee recommended that the 60th Legislative Assembly consider providing for a comprehensive Legislative Council study of health care and health insurance during the 2007-08 interim and that a consultant be hired, as necessary, to assist with the study. The committee did not propose

legislation to provide for the study and the 2007 Legislative Assembly did not approve a study.

The **2005-06 Budget Committee on Human Services** studied state programs providing services to children with special health care needs to determine whether the programs are effective in meeting these special health care needs, whether there are gaps in the state system for providing services for children with special needs, and whether there are significant unmet special health care needs of children which should be addressed. The committee also received a report from the Department of Human Services regarding the status of the Medicaid waiver to provide in-home services to children with extraordinary medical needs who would otherwise require hospitalization or nursing facility care, the number of applications the department received for the in-home services, and the status of the program's appropriation. The committee received information regarding the annual budget for the children's special health services program and learned the program serves approximately 1,400 children per year. The committee received information on the various options under federal law for states to provide Medicaid services to children with special health care needs.

The committee made no recommendations regarding the children with special health care needs study.

The **2007-08 Human Services Committee** received reports from the Department of Human Services regarding the statistics and costs associated with Healthy Steps and the status of medical assistance recipients' access to dental services. The committee learned the Legislative Assembly made a number of adjustments to the funding for Healthy Steps, including adding funding to allow income eligibility disregards similar to the Medicaid program. In addition, House Bill No. 1463 (2007) increased Medicaid eligibility for children under 19 years of age from 100 percent to 133 percent of poverty and the Healthy Steps net income eligibility from 140 percent to 150 percent of poverty. The Medicaid eligibility change was contingent on approval by the federal government. The federal government approved the expansion of the Healthy Steps eligibility level to 150 percent of poverty in June 2008 and the change became effective October 1, 2008. However, the federal government did not approve the increase in Medicaid eligibility. The committee learned through August 2008, 4,038 children were enrolled in the Healthy Steps program. As a result of the program eligibility expansion to include children up to 150 percent of the federal poverty level, an additional 800 children are expected to qualify for the program during the first 12 months under the new eligibility requirements.

2009 LEGISLATION

Critical access hospitals - Section 14 of House Bill No. 1012 provides \$400,000 of one-time funding from the general fund to the Department of Human

Services for a supplemental payment to eligible critical access hospitals. A critical access hospital is eligible for a payment under this section only if its percentage of medical payments exceeds 25 percent of its total annual revenue in its most recent audited financial statements and is located in a city with a population that does not exceed 1,450.

Children's health insurance program - Section 23 of House Bill No. 1012 amended North Dakota Century Code (NDCC) Section 50-29-04 to provide a net income eligibility limit of up to 160 percent of the federal poverty level, rather than 150 percent.

Comprehensive Health Association of North Dakota (CHAND) - Senate Bill No. 2214 amended NDCC Section 26.1-08-12 to provide CHAND coverage effective on the date the lifetime maximum occurred on previous coverage if eligible individuals apply for CHAND coverage within 90 days after the date the lifetime maximum occurred.

MEDICAID

Medicaid was authorized in 1966 for the purpose of strengthening and extending the provision of medical care and services to people whose resources are insufficient to meet their medical-related costs. Corrective, preventative, and rehabilitative medical services are provided with the objective of retaining or attaining capability for independence, self-care, and support. These services are extended to elderly, blind, or disabled individuals as well as to caretaker relatives and children to the age of 21. Funding is shared by federal, state, and county governments, with eligibility determined at the county level.

North Dakota currently receives a federal funding match of 67.49 percent. The state share of Medicaid costs is 32.51 percent. The federal medical assistance percentage changes annually on October 1 and is based on the relative relationship between each state's per capita personal income and the national average per capita personal income over the most recent three calendar years.

For those that qualify, Medicaid may provide aid to those without health insurance or for those whose health insurance does not cover all of their needs. Medicaid pays for health services for qualifying families with children and people who are pregnant, elderly, or disabled. According to the Department of Human Services, over 40,000 people in North Dakota are receiving this health coverage.

Medicaid pays for the following **services**, however, copayments may apply for certain recipients for the services with an asterisk (*).

- Doctor visits/services*.
- Hospital services (limits apply)*.
- Laboratory and x-ray.
- Dental care (limits apply)*.
- Eye care (limits apply)*.
- Prescribed drugs.

- Family planning services provided by a doctor or family planning center.
- Prosthetics (artificial limbs), braces, and related equipment.
- Home health care.
- Chiropractic services (limits apply)*.
- Out-of-state services if preapproved by North Dakota Medicaid.
- Physical and occupational therapy*.
- Podiatric services (foot specialist)*.
- Long-term care services (may range from home and community-based services, such as homemaker, personal care, adult day care, chore services, or respite care, to a nursing facility).
- Group home care for people with developmental disabilities.
- Transportation (within limits).
- Screening, diagnosis, and treatment for children younger than age 21 through the Health Tracks program (formerly early periodic screening, diagnosis, and treatment).
- Orthodontic services may be provided if referred by the Health Tracks program.
- Emergency room care is covered if the attending physician determines it is an emergency medical condition. Nonemergency conditions must be treated during physician or clinic office hours.
- Medicare Part A and Part B premiums, coinsurance, or deductibles.

Copayments do not apply if the recipient is:

- Younger than age 21;
- Living in a nursing facility, swing bed, intermediate care facility for the mentally retarded, the State Hospital, or the Anne Carlsen Center for Children;
- Pregnant;
- Needs emergency services; or
- Receives family planning services.

To **qualify for Medicaid coverage**, an individual must be a state resident and must qualify financially. The individual must also be:

- Pregnant;
- Blind, disabled, or age 65 or older;
- A member of a family with children;
- Age 21 or younger or age 65 or older and receiving services at the State Hospital;
- Younger than age 21 and living independently or in a licensed foster home;
- An adopted child younger than 21 who has special health needs or meets other criteria; or
- A woman screened through the State Department of Health's Women's Way program who needs treatment for breast or cervical cancer.

Medicaid eligibility is based on income and, in some cases, assets. Some assets are not counted when determining eligibility. Assets that do not affect

eligibility include the individual's primary home, personal belongings and clothing, household goods and furniture, one car, certain burial plans, and property that produces earned income (such as a farm or business). There is no asset limit for children, families, or pregnant women in the children and families coverage group or women who apply under the Women's Way program. Generally, a person who is blind, disabled, or age 65 or older can have up to \$3,000 in countable assets, such as savings accounts, checking accounts, stocks, bonds, or other types of assets, and up to \$6,000 in funeral expense contracts, prepayments, or deposits to qualify for Medicaid. The asset limit for couples is \$6,000. Giving property or income away or selling property for less than its value within five years of applying for Medicaid may affect a person's eligibility for long-term care services such as nursing care services, home and community-based services, or swing-bed care in a hospital.

Anyone applying for Medicaid coverage must, by law, provide that person's Social Security number or proof that the person has applied for a number. This applies for each person in the household who is seeking Medicaid coverage. Medicaid cannot cover a person until a Social Security number is provided or has been applied for with the exception of newborns who may be eligible for 60 days from birth. The Social Security number is used to verify income, assets, and eligibility.

If approved for Medicaid, the Medicaid program may pay for health services provided up to three months before the month the county social service office received the signed application. Medicaid may use the estate recovery process on estates of people who were age 55 or older when they received Medicaid coverage. When those individuals die, Medicaid may recover the cost of benefits paid out, but only if there is not a surviving spouse or a child who is younger than 21 or is blind or permanently and totally disabled.

HEALTHY STEPS

The state children's health insurance program, also known as Healthy Steps, provides premium-free health coverage to uninsured children in qualifying families. It is intended to help meet the health care needs of children from working families that earn too much to qualify for full Medicaid coverage, but not enough to afford private insurance.

There are no monthly premiums in the Healthy Steps program, but most families are required to pay copayments for emergency room visits, hospitalization, and prescriptions. Copayments are not required for American Indian children.

Healthy Steps-covered services include inpatient hospital stay, medical and surgical services, outpatient hospital and clinic services, mental health and substance abuse services, prescription medications, routine preventative services such as

well baby checkups and immunizations, dental and vision services, and prenatal services.

The 2009 Legislative Assembly increased eligibility for the program from 150 percent to 160 percent of the federal poverty level instead of an increase to 200 percent of the federal poverty level as provided for in the executive budget. To qualify, a family's **net income** (after deducting child care costs and payroll taxes such as Social Security tax, Medicare tax, and income tax) must be greater than the Medicaid level, but cannot exceed 160 percent of the federal poverty level. The following is a summary of the maximum net income allowed based on 160 percent of the federal poverty level:

Family Size	Net Income After Deducting Child Care Costs and Payroll Taxes	
	Annual	Monthly
1	\$17,328	\$1,444
2	\$23,312	\$1,943
3	\$29,296	\$2,442
4	\$35,280	\$2,940

When a child is enrolled in Healthy Steps, he or she is enrolled for a 12-month period or until the end of the month in which the child turns 19 years old. Household income is annually.

The 2009 Legislative Assembly provided funding of \$21.6 million, of which \$5.6 million is from the general fund, for the Healthy Steps program.

CARING FOR CHILDREN

Caring for Children is a benefit program for eligible North Dakota children up to age 19 who do not qualify for Medicaid or Healthy Steps and have no other insurance. Benefits include primary and preventative medical and dental care. Caring for Children is a program of the North Dakota Caring Foundation, Inc., a nonprofit 501(c)(3) foundation established by Blue Cross Blue Shield of North Dakota in 1989. Blue Cross Blue Shield provides Caring for Children administrative services as an in-kind donation. Primary and preventative care includes:

- Routine and primary medical care.
- Limited inpatient (hospital) care.
- Immunizations.
- Mental health and substance abuse.
- Primary and preventative dental care.

Children are eligible for Caring for Children if they are:

1. A resident of the state of North Dakota;
2. A United States citizen or legal permanent resident;
3. Under 19 years of age;
4. Unmarried and whose guardians have an annual income of between 151 percent and 200 percent of the federal poverty level;
5. Without comprehensive medical coverage through Medicaid, Healthy Steps, or a private insurance carrier; and
6. Within household income guidelines of the North Dakota Caring Foundation, Inc.

Caring For Children Income Guidelines Effective Through March 31, 2010		
Eligible Individuals April 1, 2009, to March 31, 2010, Household Size	Children (Birth up to Age 19) Minimum - 151% of the Federal Poverty Level Monthly Net Income ¹	Children (Birth up to Age 19) Maximum - 200% of the Federal Poverty Level Monthly Net Income ¹
	1	\$1,355
2	\$1,823	\$2,429
3	\$2,290	\$3,052
4	\$2,758	\$3,675
5	\$3,225	\$4,299
6	\$3,693	\$4,922
7	\$4,160	\$5,545
8	\$4,628	\$6,169
9	\$5,095	\$6,792
10	\$5,563	\$7,415

¹Deductions may apply for payments made out of the household such as child support, child care, and health care.

Individuals who have voluntarily cancelled medical insurance are not eligible to participate in Caring for Children for six months after the date the coverage was canceled.

HEALTH TRACKS

North Dakota Health Tracks (formerly early periodic screening diagnosis and treatment) is a preventative health program that is free for children aged 0 to 21 who are eligible for Medicaid. Health Tracks pays for screenings, diagnosis, and treatment services to help prevent health problems from occurring or help keep health problems from becoming worse. Health Tracks also pays for orthodontics (teeth braces), glasses, hearing aids, vaccinations, counseling, and other important health services.

COMPREHENSIVE HEALTH ASSOCIATION OF NORTH DAKOTA

The Comprehensive Health Association of North Dakota was created by the North Dakota Legislative Assembly in 1981 and became operational in 1982. Its initial purpose was to provide comprehensive health insurance benefits to residents of the state who have been denied health insurance or have been given restricted coverage or excessive health premiums because of high-risk health problems.

The 1997 Legislative Assembly modified CHAND to comply with federal law--the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Now, in addition to its traditional role of insuring the uninsurable population of North Dakota, CHAND issues, on a guaranteed basis, its major medical contracts to certain people eligible under HIPAA.

To be eligible for coverage under HIPAA, an applicant must:

1. Be a resident of North Dakota.
2. Meet the federally defined eligibility guidelines that require the applicant to:
 - a. Have had 18 months of qualifying previous coverage, the most recent of which is

- coverage under a group health benefit plan, government plan, Medicaid, church plan, or health insurance coverage offered in connection with any of these plans (verification of previous health insurance is required);
- b. Have applied for coverage within 63 days of the termination of the qualifying previous coverage;
 - c. Not be eligible for coverage under Medicare or a group health benefit plan;
 - d. Not have any other health insurance coverage;
 - e. Not have the most recent qualifying previous coverage terminated for nonpayment of premiums or fraud; and
 - f. Have declined continuation coverage offered by the employer or have elected continuation coverage through the employer and have exhausted the coverage extension (verification of previous health insurance is required).
3. Not be enrolled in health benefits with the state of North Dakota's medical assistance program (Medicaid).
 4. Not have health insurance premiums paid for or reimbursed under any government-sponsored program, government agency, health care provider, nonprofit charitable organization, or employer.

The Health Care Financing Administration has certified that CHAND meets the federal requirement of HIPAA.

The 2003 Legislative Assembly added language that allows CHAND to be utilized as an insurance vehicle for North Dakota residents that are eligible for assistance with health premiums through the federal Trade Adjustment Assistance Reform Act of 2002 (TAARA) or Pension Benefit Guaranty Corporation assistance. These individuals are able to receive reimbursement of 65 percent of their health premiums on a monthly pretax basis or through a special federal income tax credit at yearend.

To be eligible for coverage under TAARA, an applicant must:

1. Be a resident of North Dakota.
2. Be eligible for federal trade adjustment assistance and a health insurance tax credit or for Pension Benefit Guaranty Corporation assistance as provided by TAARA.
3. Have had three or more months of previous health insurance coverage.
4. Have applied for coverage within 63 days of termination of previous coverage.
5. Not be imprisoned under federal, state, or local authority.
6. Not be enrolled in health benefits with the state of North Dakota's medical assistance program (Medicaid).
7. Not have been insured through CHAND during the last 12 months.

8. Not have health insurance coverage through any of the following:
 - a. The applicant's or the applicant's spouse's employer plan that provides for employer contribution of 50 percent or more of the cost of coverage for the applicant, the applicant's spouse, and eligible dependents or the coverage is in lieu of an employer's cash or other benefit under a cafeteria plan;
 - b. Healthy Steps;
 - c. A government plan;
 - d. Chapter 55 of the United States Code Title 10 relating to armed forces medical and dental care; or
 - e. Medicare.
9. Be eligible for health insurance coverage through one of the following but electing to obtain coverage as a trade adjustment assistance/Pension Benefit Guaranty Corporation-qualified individual:
 - a. Continuation coverage;
 - b. An employer plan in which the employer contribution is less than 50 percent; or
 - c. An individual marketplace plan, including continuation or guaranteed issue.

With passage of the 1997 and 2003 legislation, the program now offers coverage to four types of eligible residents: standard, HIPAA, TAARA, and age 65 and over or disabled. The standard, HIPAA, and TAARA comprehensive major medical policies offer \$500 and \$1,000 deductibles with or without a chiropractic endorsement, each with a \$3,000 out-of-pocket maximum. The age 65 and over or disabled policy offers a basic or standard supplemental plan. The maximum lifetime benefit of a CHAND comprehensive plan is \$1 million which closely resembles major medical contracts sold by commercial health insurance carriers doing business in North Dakota. An individual is not eligible for CHAND if:

- Eligible for the state's medical assistance program;
- CHAND has paid \$1 million in benefits on behalf of the individual;
- The individual previously terminated CHAND coverage within the last 12 months (not applicable to HIPAA individuals);
- The individual is an inmate or a resident of a public institution (not applicable to HIPAA individuals); or
- The individual's premiums are paid for or reimbursed under any government-sponsored program, government agency, health care provider, nonprofit charitable organization, or the individual's employer (not applicable to TAARA individuals).

The program has a 180-day waiting period for preexisting conditions, which is waived if the applicant is:

- Receiving nonelective treatment or procedures and has lost dependent status under a parent's

or guardian's policy that has been in effect for the 12-month period immediately preceding application;

- Receiving nonelective procedures for a congenital or genetic disease;
- A HIPAA enrollee;
- A standard enrollee eligible for a reduction in waiting period days by the aggregate period of qualifying previous coverage provided application has been made within 63 days of termination of the qualifying coverage; or
- A TAARA enrollee.

The Comprehensive Health Association of North Dakota is composed of those accident and health insurance companies selling a minimum of \$100,000 of health insurance annually in North Dakota. The original legislation was intended to create a self-supporting pool funded by participants' premiums. In 1983, however, the original legislation was amended to limit the premiums charged by CHAND to 135 percent of the average amount charged for standard coverage in the state. Rates for the CHAND program are reviewed annually. Losses in excess of the premium are paid by participating companies in the form of assessments. Companies are allowed a credit against the premium tax they would otherwise pay to the state in an amount equal to the assessment paid to CHAND. The CHAND Board of Directors consists of eight members, including the Insurance Commissioner, the State Health Officer, the director of the Office of Management and Budget, one senator (Senator Judy Lee), one representative (Representative Nancy Johnson), and one representative from each of the three insurers with the highest premium volumes, (currently, Blue Cross Blue Shield of North Dakota, Medica Health Plans, and Assurant). North Dakota is one of 32 states with traditional risk pools such as CHAND and was one of the first three in the country. Other states have opted for special alternative health insurance programs or require guaranteed issue in the individual market. Blue Cross Blue Shield of North Dakota is currently under contract with the state of North Dakota to administer the day-to-day business of CHAND. Premiums are collected and claims are paid through the Blue Cross Blue Shield Fargo office. The Comprehensive Health Association of North Dakota has grown from 78 insured in December 1982 to about 1,678 insured as of June 30, 2006. Of these, 411 individuals were covered under an age 65 and over or disabled supplement contract. Enrollment in the program has leveled off and the expectation is that it will remain between 1,200 and 1,800 participants.

ASSESSMENT OF HEALTH CARE IN NORTH DAKOTA

In November 2008, the Dakota Medical Foundation and the University of North Dakota School of Medicine and Health Sciences Center for Rural Health formed a partnership to conduct an assessment of health and

health care in North Dakota. The study was conducted from December 2008 to February 2009. Issued in May 2009, the report, entitled *An Environmental Scan of Health and Health Care in North Dakota: Establishing the Baselines for Positive Health Transformation*, provides an overview of selected health and health care issues in North Dakota. The report addresses environment, health-related behaviors, and chronic diseases. In addition, the report provides information regarding health care infrastructure, quality, access, and financing of health services. A copy of the executive summary of the report is provided as [Appendix B](#).

STUDY PLAN

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

1. Gather and review information on programs available to individuals unable to acquire private health care coverage and the current status of those programs and unmet health care needs in the state.
2. Gather and review information on the number of uninsured and underinsured individuals in North Dakota.
3. Gather and review information on the needs of underinsured and uninsured individuals and families.
4. Gather and review information on federal health care initiatives, including how they will affect current programs.
5. Receive information from interested persons, including AARP, the North Dakota Healthcare Association, the North Dakota Medical Association, the North Dakota County Social Service Directors Association, the North Dakota Health Information Technology Office and advisory committee, the University of North Dakota School of Medicine and Health Sciences Rural Opportunities in Medicine, and Blue Cross Blue Shield of North Dakota, regarding the availability and affordability of health care services in the state, the role of telemedicine in providing health care services in the state, and efforts to bring health care to rural North Dakota.
6. Receive information from the Department of Human Services, the State Department of Health, and the Insurance Commissioner regarding programs and services available to underinsured and uninsured individuals and families in the state.
7. Receive information from the University of North Dakota School of Medicine and Health Sciences Center for Rural Health regarding its recent report on health and health care in North Dakota as it relates to the needs of underinsured and uninsured individuals and families in the state.

8. Develop committee recommendations and prepare any legislation necessary to implement the committee recommendations.
9. Prepare a final report for submission to the Legislative Management.

ATTACH:2