

November 2009

## SERVICES FOR PREGNANT MINORS STUDY - BACKGROUND MEMORANDUM

The 2009 Legislative Assembly approved Senate Bill No. 2394. Section 2 of the bill (attached as [Appendix A](#)) provides for a Legislative Management study of existing services for minors who are pregnant and whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor. The study is to consider the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue. The study is also to consider the benefits to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions. The study must also determine the most desirable evidence-based service delivery system and the amount and sources of adequate funding.

### PREVIOUS STUDIES

The 2001-02 Budget Committee on Human Services studied the feasibility and desirability of establishing an alternatives-to-abortion services program that would provide information, counseling, and support services to assist women to choose childbirth and to make informed decisions regarding the choice of adopting or parenting.

The committee reviewed the federal Title X family planning program. Title X of the Public Health Service Act of 1970 authorizes the family planning program, which is administered by the United States Department of Health and Human Services Office of Population Affairs. The program authorizes grants to assist in the establishment and operation of voluntary family planning projects offering a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). The mission of the program is to provide individuals the information and means to exercise personal choice in determining the number and spacing of their children. Program funds may be used for providing information and counseling regarding abortion but not for abortion programs. Funding received under the program does not require any state matching funds. The program offers pregnant women the opportunity to be provided information and counseling regarding:

1. Prenatal care and delivery.
2. Infant care, foster care, or adoption.
3. Pregnancy termination.

The federal grants may be provided to either public or nonprofit private entities. In North Dakota the State Department of Health receives the federal Title X grants and administers the family planning services through contracts with nine delegate agencies across

the state. The family planning grants are awarded competitively every five years.

The program, operated through the nine delegate agencies, offers family planning services at 18 clinic sites in North Dakota. In calendar year 2000, 14,494 clients made 24,062 visits to the family planning agencies. Of the 14,494 clients, 8,791 had incomes below 150 percent of the federal poverty level. Clients pay for services based on household size and income. Clients with income at or below 100 percent of the poverty level receive services at no cost.

The program provides pregnancy testing, diagnosis, counseling, and referrals. Each clinic is required to maintain a service referral list, which must be made available to clients, for women with positive pregnancy test results. Pregnant clients must be offered information and counseling regarding prenatal care and delivery, infant care, foster care, adoption, and pregnancy termination. The committee learned that based on a 1997 survey, approximately 4 percent of pregnant women seen at the clinics request information on abortion services.

The committee received the following information from each of the nine delegate agencies providing family planning services under federal Title X in North Dakota:

1. Upper Missouri District Health Unit, Williston - Serves the counties of Divide, McKenzie, Mountrail, and Williams. In calendar year 2000, the health unit performed 193 pregnancy tests, 59 of which were positive. For those with positive tests, information was provided on all available options, the importance of prenatal care, and referrals as appropriate.
2. First District Health Unit, Minot - Serves the counties of Bottineau, Burke, McHenry, McLean, Renville, Sheridan, and Ward. In calendar year 2000, the health unit performed 147 pregnancy tests, 69 of which were positive. The 69 clients who tested positive met with a social worker and were informed of the options available to the client. The program was unaware of how many women chose abortion.
3. Lake Region District Health Unit, Devils Lake - Serves the counties of Benson, Eddy, Pierce, Ramsey, Nelson, Cavalier, Rolette, Towner, Wells, and McHenry. In calendar year 2000 the health unit performed 50 pregnancy tests, 12 of which were positive. Of the 12 positive tests, 7 planned to continue the pregnancy and keep the child, 2 were deciding if they

- would keep the child or give it up for adoption, and 3 were unsure of their plans.
4. Valley Health, Grand Forks - Serves the counties of Grand Forks, Nelson, Pembina, Steele, and Walsh. In calendar year 2000, the program performed 484 pregnancy tests, 99 of which were positive. Of the 99 positive tests, 65 birth outcomes were unknown, 14 continued the pregnancy, 7 miscarried, and 13 chose abortion.
  5. Fargo-Cass Public Health and Family Planning Clinic, Fargo - Serves Cass County. In calendar year 2000, the clinic performed 413 pregnancy tests, 85 of which were positive. Of the 85 positive tests, 19 were planned pregnancies and 66 were unintended. Of the 66 unintended pregnancies, outcome data was available on only 16--7 continued the pregnancy, 2 miscarried, and 7 chose abortion.
  6. Richland County Family Planning, Wahpeton - Serves the counties of Ransom, Richland, and Sargent. In calendar year 2000, the program performed 109 pregnancy tests, 11 of which were positive. Of the positive tests, six individuals were given information on prenatal care and services available to pregnant women and five were given information on all options. Of the five clients given information on all options, three proceeded with prenatal care, one was undecided, and one chose abortion.
  7. Central Valley Family Planning Program, Jamestown - Serves the counties of Barnes, Dickey, Eddy, Foster, Griggs, Kidder, LaMoure, Logan, McIntosh, Ransom, Sargent, Stutsman, and Wells. In calendar year 2000, the program performed 97 pregnancy tests, 32 of which were positive. Of the positive tests, 28 received information on prenatal care, 1 on adoption, and 3 on all options.
  8. Custer Family Planning Center, Bismarck - Serves the counties of Burleigh, Emmons, Grant, Mercer, Morton, Oliver, and Sioux. During calendar year 2000, the center performed 406 pregnancy tests, 83 of which were positive. Of the positive tests, 64 received prenatal care, 8 chose abortion, and 11 had unknown outcomes.
  9. Community Action and Development Program, Inc., Dickinson - Serves the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope, and Stark. In calendar year 2001, the program performed 184 pregnancy tests, 17 of which were positive. The individuals with positive results were provided the "Before You Decide" brochure and encouraged to read it before making a decision. These individuals were also counseled regarding the options and provided information based on their decision

or referred for further counseling, as appropriate.

The committee received information on the potential use of federal temporary assistance for needy families (TANF) program funds for alternatives-to-abortion services programs. The committee learned if federal TANF funds are to be used for an alternatives-to-abortion program, any proposed legislation should indicate how the program will accomplish the purposes of federal TANF funding. Under federal law, the purpose of TANF funding is to:

1. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
2. End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.
3. Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies.
4. Encourage the formation and maintenance of two-parent families.

Because TANF funding is a block grant to the states, any allocation by the Legislative Assembly generally will be considered appropriate. However, if the allocation is not consistent with federal law, it could be questioned by the State Auditor while conducting the state's single federal audit. The committee reviewed a letter from representatives of the federal Department of Health and Human Services indicating it may be appropriate for the state to use federal TANF funds for an alternatives-to-abortion services program.

The committee received information from the AAA Pregnancy Clinic in Fargo and learned the clinic is a nonprofit corporation that serves individuals facing a crisis pregnancy and provides community outreach educational programs focusing on abstinence education. The program began in Fargo in 1984. The clinic provides free services to women facing unplanned pregnancies. The program does not refer for abortions or provide information on abortion but provides life-affirming education and support services. Services provided by the clinic include medical services, financial support, and material aid. The program receives donations from individuals, businesses, and churches.

The committee received information from the Women's Clinic, Fargo. The Women's Clinic provides alternatives-to-abortion services and employs a full-time counselor to provide pregnancy counseling services.

The committee reviewed a bill draft that would establish an alternatives-to-abortion marketing task force to develop and implement a statewide marketing plan to promote alternatives-to-abortion services and provide an appropriation of \$100,000 from the general fund to the Department of Human Services to market the services during the 2003-05 biennium.

The committee received information from the State Department of Health regarding options for providing a toll-free telephone number for alternatives-to-abortion services referrals. The committee learned the State Department of Health is considering developing a statewide toll-free public health information line that would allow the public to gain health information, advice, and referrals. Nurses trained to assist the public using nationally recognized protocols and procedures would staff the line. The line would help detect bioterrorism, improve health, and increase efficiency. The committee learned the State Department of Health believes that nurses staffing the line could address questions relating to unexpected pregnancies and would provide information on all legal options, including alternatives-to-abortion and abortion services.

The committee made no recommendation as a result of its study of alternatives-to-abortion services.

### **ALTERNATIVES-TO-ABORTION PROGRAM**

The alternatives-to-abortion services program was created by Senate Bill No. 2409, approved by the 2005 Legislative Assembly. The Department of Human Services established and implemented the program to provide funding to nongovernmental entities that provide alternatives-to-abortion services. Services provided under this program promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children. Professional staff, such as licensed nurses and social workers, and paraprofessional staff, such as nursing and social work interns, who provide services that include assessment, counseling, education, and referrals in a confidential manner. A list of *North Dakota Approved Providers by City* is attached ([Appendix B](#)).

Service providers bill the Department of Human Services by using the Voucher for Alternative to Abortion Services form. The form is used to collect billing information and outcome information as directed under 2005 Senate Bill 2409. Outcome information collected includes information on services provided and the outcome of the services provided, if known.

The Department of Human Services contracted with Mental Health America of North Dakota for the use of its 2-1-1 telephone service. This statewide information, referral, and crisis intervention service is free and operator-serviced 24 hours a day 7 days a week. The alternatives-to-abortion providers, including two private maternity homes, are part of the potential referrals for anyone who is pregnant or may be pregnant. In addition, this information has been programmed onto the Mental Health America of North Dakota's website and distributed to higher education

institutions, health care providers, and larger high schools in the state.

Services provided qualify to be paid under the federal TANF block grant.

The 2007 Legislative Assembly approved Senate Bill No. 2312 which continued the alternatives-to-abortion services program. Pursuant to Section 2 of Senate Bill No. 2312, the Department of Human Services was to provide a status report regarding the program to the Legislative Council. The 2007-08 Human Services Committee was assigned responsibility to receive the report. The committee learned the program provides funds to organizations that provide alternatives-to-abortion services and educate the public about the program.

The Legislative Assembly appropriated \$500,000 of federal funds for the program during the 2005-07 biennium and \$400,000 of federal funds for the 2007-09 biennium. The committee learned 882 women received services through providers of alternatives-to-abortion services from July 2007 through September 2008. Information on alternatives to abortion was distributed in September 2007 to higher education institutions and larger high schools in the state. Total program expenditures for the 2007-09 biennium were \$321,202.

Senate Bill No. 2391 (2009) amended North Dakota Century Code Section 50-06-26 relating to the alternatives-to-abortion services program. The bill requires the Department of Human Services, in consultation with a nongovernmental entity that provides alternatives-to-abortion services, to contract to inform the public about the alternatives-to-abortion services program. The bill provides \$100,000 from federal TANF block grant funds to the Department of Human Services to inform the public about the alternatives-to-abortion program. In addition, during the 2009-10 interim, Senate Bill No. 2391 requires that the Department of Human Services make annual reports to the Legislative Management regarding the status of the alternatives-to-abortion services program. The Health and Human Services Committee has been assigned responsibility to receive the report.

The appropriations bill for the Department of Human Services, House Bill No. 1012, includes \$400,000 of federal TANF funding for the alternatives-to-abortion program; therefore, a total of \$500,000 of federal funds is appropriated for the program for the 2009-11 biennium.

### **PRENATAL CARE AND PREGNANCY CARE CONSENT**

In addition to providing for the Legislative Management study assigned to this committee, Senate Bill No. 2394 (2009) also created a new section to Chapter 14-10 relating to consent for prenatal care and other pregnancy care services provided to minors. The bill provides:

- A physician or other health care provider may provide pregnancy testing and pain management related to pregnancy to a minor without the consent of a parent or guardian.
- A physician or other health care provider may provide prenatal care to a pregnant minor in the first trimester of pregnancy or may provide a single prenatal care visit in the second or third trimester of pregnancy without the consent of a parent or guardian.
- A physician or other health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the physician or other health care provider is unable to contact the minor's parent or guardian.
- The costs incurred by the physician or other health care provider for performing services under this section may not be submitted to a third-party payer without the consent of the minor's parent or guardian.
- If a minor requests confidential services, the physician or other health care professional must encourage the minor to involve her parents or guardian.
- A physician or other health care professional or a health care facility may not be compelled against their best judgment to treat a minor based on the minor's own consent.

The bill allows the physician or other health care professional who provides pregnancy care services to a minor to inform the parent or guardian of the minor of any pregnancy care services given or needed if the physician or other health care professional discusses with the minor the reasons for informing the parent or guardian prior to the disclosure and, in the judgment of the physician or other health care professional:

- Failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child;
- Surgery or hospitalization is needed; or
- Informing the parent or guardian would benefit the health of the minor or her unborn child.

The bill does not authorize a minor to consent to abortion or otherwise supersede the requirements of Chapter 14-02.1.

## 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 such 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 age 21. Funding is shared by federal,

state, and county governments, with eligibility determined at the county level.

For individuals who qualify, Medicaid may be available to 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 individuals who are pregnant, elderly, or disabled.

Medicaid will pay for the following services. Some copayments may apply for services identified with an asterisk.

- Doctor visits/services.\*
- Hospital services (limits apply).\*
- Lab 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 nursing facility).
- Group home care for people with developmental disabilities.
- Transportation (with 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.

Individuals do not have to pay copayments if they are:

- 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 School;
- Pregnant;
- Need emergency services; or
- Receive family planning services.

To qualify for Medicaid coverage, an individual must be a state resident and must qualify financially. In addition, 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 home the person is living in, 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) to qualify for Medicaid. The limit for couples is \$6,000. Giving property or income away or selling property for less than its value 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.

### **OPPEN HOME**

The Oppen Home, located in Minot, is operated by the North Central Human Service Center and can provide services for up to seven young women who are pregnant or in need of residential services through an order of the court for shelter care or short-term foster care. The Oppen Home is supported by the foster care services program and provides the youth with structure and supervision. The Oppen Home provides services for unmarried, pregnant adolescent females, aged 12 through 17, including:

- Individual, group, and family counseling;

- Prenatal classes;
- Parenting education;
- Education through tutoring or correspondence courses; and
- Residential services.

Education is coordinated through Minot Public Schools and onsite tutoring may be arranged if appropriate.

The Oppen Home's primary focus is pregnant teens who need a less-restrictive placement. The pregnant teens may reside at Oppen Home throughout the term of the pregnancy.

### **STUDY PLAN**

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

1. Gather and review information on existing services for minors who are pregnant.
2. Receive information from interested persons, including North Dakota-approved alternatives-to-abortion program providers, delegate agencies, maternity homes, individuals, families, physicians, and other health care professionals regarding whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor, the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue, the benefit to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions.
3. Receive information from the Department of Human Services and the State Department of Health regarding programs and services available to minors who are pregnant, the most desirable evidence-based service delivery system, and the amount and sources of adequate funding.
4. Develop committee recommendations and prepare any legislation necessary to implement the committee recommendations.
5. Prepare a final report for submission to the Legislative Management.

ATTACH:2