

OTHER DUTIES OF THE HUMAN SERVICES COMMITTEE - BACKGROUND MEMORANDUM

In addition to the study responsibilities assigned to the Human Services Committee for the 2019-20 interim, the committee has also been assigned to:

- Receive annual reports from the Autism Spectrum Disorder Task Force (North Dakota Century Code Section 50-06-32 ([Appendix A](#))).
- Receive a report from the Department of Human Services (DHS) regarding the autism spectrum disorder program pilot project (Section 50-06-32.1 ([Appendix B](#))).
- Receive a report from DHS and the steering committee for the developmental disabilities system reimbursement project on development activities and status information for the project (Section 50-06-37 ([Appendix C](#))).
- Receive a report from DHS before August 1 of each even-numbered year regarding provider reimbursement rates under the medical assistance expansion program (Section 50-24.1-37 ([Appendix D](#))).
- Receive a biennial report before August of each even-numbered year from DHS on the tribal health care coordination fund and tribal government use of money distributed from the fund (Section 50-24.1-40(4) ([Appendix E](#))).
- Receive annual reports from DHS describing enrollment statistics and costs associated with the children's health insurance program state plan (Section 50-29-02 ([Appendix F](#))).
- Receive a report from DHS on the system of services for individuals with an intellectual or developmental disability (Section 5 of House Bill No. 1517 (2019) ([Appendix G](#))).
- Receive a report prior to July 1, 2020, from DHS on the acute psychiatric and residential care statewide needs plan (Section 18 of Senate Bill No. 2012 (2019) ([Appendix H](#))).
- Receive a report prior to October 1, 2020, from DHS on the plan to implement the revised payment methodology for nursing facility services (Section 19 of Senate Bill No. 2012 (2019) ([Appendix I](#))).
- Receive a report during the 2019-20 interim from DHS and permanent housing program grant recipients regarding the services provided by the programs, the nonidentifiable demographics of the individuals receiving services, and the other funding or reimbursement being used to support the programs. (Section 22 of Senate Bill No. 2012 (2019) ([Appendix J](#))).
- Receive a report from DHS on the ongoing work of the department to improve community provider capacity, together with any barriers encountered and a report regarding the system of services for individuals with an intellectual or developmental disability, including a review of the existing service system, funding, and unmet needs (Section 3 of Senate Bill No. 2247 (2019) ([Appendix K](#))).
- Receive periodic reports from DHS on the status of the department's administration of county social services programs, including the establishment of human service zones, human service zone budgets, and the indirect cost allocation plan; program changes and any "family first" legislation initiatives; formula payments, and any county employees transferred to the department (Legislative Management directive ([Appendix L](#))).

AUTISM SPECTRUM DISORDER TASK FORCE

Senate Bill No. 2174 (2009), codified as Section 50-06-32, established an Autism Spectrum Disorder Task Force consisting of the state health officer, the executive director of the Department of Human Services, the Superintendent of Public Instruction, the executive director of the Protection and Advocacy Project, and the following members appointed by the Governor:

- A pediatrician with expertise in the area of autism spectrum disorder;
- A psychologist with expertise in the area of autism spectrum disorder;
- A college of education faculty member with expertise in the area of autism spectrum disorder;
- A behavioral specialist;
- A licensed teacher with expertise in the area of autism spectrum disorder;
- An occupational therapist;

- A representative of a health insurance company doing business in the state;
- A representative of a licensed residential care facility for individuals with autism spectrum disorder;
- An enrolled member of a federally recognized Indian tribe;
- An adult advocate with autism spectrum disorder;
- A parent of a child with autism spectrum disorder;
- A family member of an adult with autism spectrum disorder; and
- A member of the Legislative Assembly.

The task force is to examine early intervention and family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.

The task force is to develop a state autism spectrum disorder plan and continue to review and periodically update or amend the plan to serve the needs of individuals with autism spectrum disorder. The task force is to provide an annual report to the Governor and the Legislative Council regarding the status of the state autism spectrum disorder plan.

AUTISM SPECTRUM DISORDER VOUCHER PROGRAM PILOT PROJECT

House Bill No. 1038 (2013), codified as Section 50-06-32.1, required DHS to establish a voucher program pilot project beginning July 1, 2014, to assist in funding equipment and general educational needs related to autism spectrum disorder for individuals below 200 percent of the federal poverty level from age 3 to under age 18 who have been diagnosed with autism spectrum disorder. In addition, the department is required to adopt rules addressing management of the voucher program pilot project and to establish eligibility requirements and exclusions for the voucher program pilot project. The section further provides the department is to report to the Legislative Management regarding the pilot project. When enacted, the section included a sunset clause for the section to expire on June 30, 2015. However, Section 13 of Senate Bill No. 2012 (2015) provided for the continuation of Section 50-06-32.1 without a sunset clause.

The 2015 Legislative Assembly provided funding for 53 voucher slots for the 2015-17 biennium; however, funding for 10 of the slots was removed due to the August 2016 general fund budget reductions. The 2017 Legislative Assembly restored funding for the voucher slots to provide for 53 voucher slots for the 2017-19 biennium which was also provided for the 2019-21 biennium. Section 46 of Senate Bill No. 2012 provides DHS is to propose changes to North Dakota Administrative Code to increase program flexibility to serve more families within existing appropriations. The section provides the proposed changes should consider changes that include a voucher that is solely for technology support and one that is for in-home supports; adding case management or parent-to-parent support as an allowable service for voucher funds; and reducing the amount of time during which a household may use approved voucher funds.

DEVELOPMENTAL DISABILITIES SYSTEM REIMBURSEMENT PROJECT

Section 50-06-37, as enacted by Senate Bill No. 2043 (2011), required DHS, in conjunction with developmental disabilities providers, to develop a prospective developmental disabilities payment system based on the support intensity scale. A steering committee was created to guide DHS on the development of the new payment system. The new payment system was implemented on April 1, 2018. The new system is based on a needs assessment for each individual served and rates that are standardized across all providers.

Section 50-06-37 was amended by Senate Bill No. 2247 (2019) to provide DHS maintain the payment system based on a state-approved assessment. A steering committee of no more than 18 individuals is to be used to provide guidance for the system. The steering committee must include no more than two clients, no more than one family member of a client, a representative of DHS, and a representative of the Protection and Advocacy Project. The steering committee is to analyze appropriate data and recommend to DHS any rate adjustments, resource allocation modifications, or process assumptions. The department and the steering committee are to report developmental activities and state information to the Legislative Management.

MEDICAID EXPANSION PROVIDER REIMBURSEMENT RATES

Section 7 of Senate Bill No. 2012 (2019) continues the Medicaid Expansion program through June 30, 2021. The section provides for the contract between DHS and the insurance carrier to include a provision for the carrier to provide DHS with provider reimbursement rate information when selecting a carrier. The section also requires DHS to provide the Legislative Management a report regarding provider reimbursement rates under the medical assistance expansion program. The report may include trend data but may not disclose identifiable provider reimbursement rates.

TRIBAL HEALTH CARE COORDINATION FUND

Section 50-24.1-40, as enacted in House Bill No. 1194 (2019), provides for DHS to facilitate care coordination agreements between health care providers and tribal health care organizations that will result in 100 percent federal funding for eligible medical assistance provided to an American Indian. The section creates a tribal health care coordination fund and provides that any funding received in excess of the state's regular share of federal medical assistance funding due to a care coordination agreement is to be deposited 60 percent in the tribal health care coordination fund and 40 percent in the general fund. Money in the tribal health care coordination fund are appropriated on a continuing basis for distribution to tribal government in accordance with agreements between DHS and the tribal governments. The agreements must require the tribal governments to use funding distributed from the tribal health care coordination fund for health-related purposes which may include population health programs or services, marketing or education related to health programs or services, and developing or enhancing community health representative programs or services. Funding may not be used for capital construction, stipends to individuals for services, or services covered by Indian Health Services, Medicaid, or other third-party payers or programs. The agreements between DHS and tribal governments must also require tribal governments to submit annual reports to DHS regarding the use of money distributed from the tribal health care coordination fund. Tribal governments must also submit to DHS every 2 years an audit report regarding the use of funding distributed from the tribal health care coordination fund.

The Department of Human Services is to provide a report to the Legislative Management before August 1 of each even-numbered year regarding the tribal health care coordination fund including how participating tribal governments used funding distributed from the fund.

CHILDREN'S HEALTH INSURANCE PROGRAM

Section 50-29-02 provides DHS is to prepare, submit, and implement a children's health insurance program state plan and report annually to the Legislative Management. The report must include enrollment statistics and costs associated with the plan.

Healthy Steps--North Dakota's children's health insurance plan--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. To be eligible for the program, the family's net income may not exceed 175 percent of the federal poverty level.

The 2019 Legislative Assembly appropriated \$12,821,689 of state and federal funds for the Healthy Steps program for the 2019-21 biennium. This level of appropriation is based on an estimated average annual enrollment of 2,154 the 1st year of the biennium and an estimated average annual enrollment of 2,180 the 2nd year of the biennium.

SYSTEM OF SERVICES FOR INDIVIDUALS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY

House Bill No. 1517 (2019) directs DHS to establish regional crisis support services for individuals with an intellectual or developmental disability. The bill also directs the department to conduct the standardized assessment of eligible individuals residing at the Life Skills and Transition Center. Section 5 of the bill requires DHS to provide a report to the Legislative Management regarding services for individuals with an intellectual or developmental disability. The report is to include:

1. The ongoing work of the department to improve community provider capacity, including any barriers encountered and policy review; and
2. The system of services for individuals with an intellectual or developmental disability, including a review of the existing service system, funding, and unmet needs.

ACUTE PSYCHIATRIC AND RESIDENTIAL CARE STATEWIDE NEEDS PLAN

Section 18 of Senate Bill No. 2012 (2019) (which was further amended by Section 30 of Senate Bill No. 2015 (2019)) requires DHS to develop a statewide plan to address acute psychiatric and residential care needs. The plan must address the following:

1. The size and use of the State Hospital;
2. The potential need for state-operated or private acute facilities in areas of the state outside the city of Jamestown;
3. The potential to expand private providers' offering of acute psychiatric care and residential care to fulfill the identified need, including how the implementation of services authorized by the 66th Legislative Assembly affects the balance of inpatient, residential, and community-based services;
4. The impact of department efforts to adjust crisis services and other behavioral health services provided by the regional human service centers; and
5. The potential use of available Medicaid authorities, including waivers or plan amendments.

The Department of Human Services is to provide a report to the Legislative Management before July 1, 2020, regarding the plan and any legislation necessary to implement the plan.

NURSING FACILITY SERVICE PAYMENT METHODOLOGY

Section 19 of Senate Bill No. 2012 (2019) requires DHS to develop and implement a plan for a revised payment methodology for nursing facility services. The plan must include recommendations for:

1. Methods of reimbursement for nursing facility cost categories including direct patient care, administrative expenses, and capital assets;
2. Considerations regarding establishing peer groups for payments based on factors such as geographical location or nursing facility size;
3. The feasibility and desirability of equalizing payments for nursing facilities in the same peer group, including the time frame for equalization; and
4. Payment incentives related to care quality or operational efficiency.

The executive director of DHS and representatives of the nursing home industry must appoint a committee to advise the department in developing the revised payment methodology. The department is to provide a report to the Legislative Management before October 1, 2020, regarding the plan to implement the revised payment methodology. The estimated costs related to the implementation of the revised payment methodology must be included in the department's 2021-23 biennium budget request submitted to the Legislative Assembly.

PERMANENT HOUSING PROGRAM GRANTS

Section 22 of Senate Bill No. 2012 (2019) identifies \$925,000 from the general fund included in the DHS budget for grants to entities to provide housing services to individuals in the northeast and southeast human service regions. The department is to develop and implement standardized processes for the distribution of the permanent housing grants. Grant funds may be used only for services not reimbursed by other funding sources. The department, along with entities receiving the grants, are to provide reports to the Legislative Management regarding services provided by the programs, demographics of individuals receiving services, and other funding or reimbursement being used to support the programs.

INTELLECTUAL DISABILITY SYSTEM COMMUNITY PROVIDER CAPACITY

Section 3 of Senate Bill No. 2247 (2019) provides legislative intent that DHS continue to work with community providers to continuously improve community provider capacity to serve clients in the least restrictive appropriate setting. The department is to provide the Legislative Management a status report on the ongoing work of the department to improve community provider capacity, together with any barriers encountered. The department is also to provide a report to Legislative Management regarding the system of services for individuals with an intellectual or developmental disability, including a review of the existing service system, funding, and unmet needs.

COUNTY SOCIAL AND HUMAN SERVICES PROJECT

In Senate Bill No. 2124 (2019), the Legislative Assembly approved a new social and human service delivery system. Key components of the system include:

- Up to 19 multicounty zones may be established for the delivery of human services. Counties with a population over 60,000 may be a single county zone.
- A human service zone board, comprised of county commissioners and other local officials, are to govern each zone. The board may not exceed 15 members appointed by county commissioners with at least one commissioner from each county serving on the board.
- Each human service zone board is to hire a human service zone director to serve as presiding officer of the board and to oversee the operations of the human service zone.
- Funding formula payments for direct costs will be provided to each zone that is based on fiscal year 2018 data.
- Up to 33 full-time equivalent employees may be transferred from counties to DHS if one or more human service zones transfers duties to the department. Funding formula payments may be withheld from a zone for any duties that are transferred to the department.
- Up to 107 full-time equivalent employees may be transferred from counties to DHS for specific positions that provide services to the zones.

Pursuant to a Legislative Management directive, the committee is to receive periodic reports from DHS on the status of the department's administration of county social service programs, including the establishment of human service zones, human service zone budgets, and the indirect cost allocation plan; program changes and any "family first" legislation initiatives; formula payments, and any county employees transferred to the department.

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