

## MANDATED HEALTH INSURANCE COVERAGE STUDY

The committee has been assigned three responsibilities regarding mandated health insurance coverage:

- A study of existing mandated coverage (Section 2 of House Bill No. 1407);
- Receipt of a report from the Insurance Commissioner by July 1, 2002, evaluating existing mandated coverage (Section 2 of House Bill No. 1407); and
- Contract with a private entity after recommendations from the Insurance Commissioner for a cost-benefit analysis of every legislative measure mandating coverage of services or payment for specific providers of service (North Dakota Century Code (NDCC) Section 54-03-28).

### STUDY OF EXISTING MANDATED COVERAGE

Section 2 of 2001 House Bill No. 1407, attached as Appendix A, provides for a Legislative Council study of:

- Existing mandates requiring health insurance coverage of services.
- The feasibility and desirability of repealing state laws which mandate health insurance coverage of services.

### INSURANCE COMMISSIONER REPORT

Section 2 of House Bill No. 1407 also directs the Insurance Commissioner to conduct a cost-benefit evaluation, subject to the availability of funds pursuant to Section 3 of the bill, of each existing health insurance coverage mandate and to evaluate the benefits of reducing the need for future health care services through early identification and treatment programs. A third party may be contracted by the Insurance Commissioner to conduct the evaluations. A report on the evaluations must be presented to the Legislative Council before July 1, 2002. The Legislative Council has assigned to this committee the duty of receiving the report from the Insurance Commissioner.

Section 3 of the bill provides that the Insurance Commissioner may accept and spend up to \$250,000 from grants or donations for the purpose of completing the evaluations provided for in Section 2 of the bill. In addition, the Insurance Commissioner may use up to \$250,000 of unspent moneys from the 1999-2001 biennium to the extent the use of such moneys will not reduce anticipated transfers from the insurance regulatory trust fund to the general fund.

### LEGISLATIVE COUNCIL CONTRACT FOR ANALYSIS OF PROPOSED MANDATED COVERAGE

Section 1 of House Bill No. 1407, codified as NDCC Section 54-03-28, provides that if a legislative measure mandates health insurance coverage of services or payment for specified providers of services, the measure may not be acted on by any committee of the Legislative Assembly unless accompanied by a cost-benefit analysis. The cost-benefit analysis will be conducted by a private entity contracted by the Legislative Council, after receiving recommendations from the Insurance Commissioner. The cost of the contract will be paid by the Insurance Commissioner from the \$55,000 appropriated from the insurance regulatory trust fund in Section 4 of the bill.

The Legislative Council has assigned to the committee the responsibility of contracting a private entity to provide cost-benefit analyses of legislative measures mandating health insurance coverage during the 58th Legislative Assembly.

The cost-benefit analysis must include:

1. The extent to which the proposed mandate or payment would increase or decrease the cost of the service.
2. The extent to which the proposed mandate or payment would increase the appropriate use of the service.
3. The extent to which the proposed mandate or payment would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds.
4. The impact of the proposed mandate or payment on the total cost of health care.

A majority of the members of the committee considering the measure may determine if it mandates health insurance coverage of services or payment for specified providers of services under this section. Any amendment to a legislative measure mandating health insurance coverage of services or payment for specified providers of services is also subject to the provisions of this section.

### PRIOR LEGISLATIVE STUDIES

#### 1989-90 Industry and Business Committee

Pursuant to 1989 House Concurrent Resolution No. 3059, the 1989-90 interim Industry and Business Committee conducted a study of the health insurance needs of uninsured and underinsured persons. Two of the bills recommended by the committee and

introduced to the 1991 Legislative Assembly relate to the issue of health insurance mandates.

#### **House Bill No. 1042**

This bill authorized the issuance of a basic health insurance policy which did not include certain coverage otherwise mandated by state law. In order to be eligible to purchase the basic coverage policy, an individual or an employer with fewer than 25 employees was required to have been without health insurance for a period of at least 12 months preceding the date of application for coverage. The bill was intended to allow the issuance of a low-priced, minimum coverage health insurance policy for those people otherwise unable to afford coverage. The legislation included a sunset clause which made the act effective through June 30, 1997.

Mandated coverage not required to be included in the basic policy included:

1. Substance abuse coverage.
2. Mental disorder coverage.
3. Mammogram examination coverage.
4. Surgical and nonsurgical treatment of temporomandibular joint (TMJ) disorder and craniomandibular disorder.

Section 2 of the bill required the Insurance Commissioner to collect data relating to the issuance of basic health insurance policies in the state and present reports to the Legislative Council during the 1991-92, 1993-94, and 1995-96 interims. The Insurance Commissioner reported to the 1991-92 interim Health Care Committee that Blue Cross Blue Shield of North Dakota was the only insurance carrier which expressed an interest in writing a basic health insurance policy in North Dakota. The cost of the insurance policy was reported to be 8 to 10 percent below the cost of a typical policy. A status report was subsequently presented to the 1993-94 interim Health and Communications Committee and a final report was presented to the 1995-96 interim Insurance and Health Care Committee. The final report indicated that the basic insurance coverage policy had not been widely accepted by consumers and few policies were issued. The Insurance Commissioner recommended the authorization for the issuance of the basic health insurance policy not be extended. Consequently, the authority, codified as NDCC Section 26.1-36-12.3, expired on June 30, 1997.

#### **House Bill No. 1043**

This bill, which failed to pass, would have required that before any legislative measure mandating health insurance coverage could be considered by a standing committee of the Legislative Assembly, the measure must be accompanied by a report from the Insurance Commissioner assessing the costs and benefits of the measure. The legislative history for the bill indicates

the bill's supporters argued for passage of the bill on the basis that objective information is needed regarding the cost of proposed health insurance coverage mandates. Opposition to the bill was primarily based on concerns the bill would limit legislators' ability to introduce legislation due to the requirement for an accompanying cost-benefit analysis before a measure could be considered by a legislative committee.

#### **1995-96 Insurance and Health Care Committee**

Pursuant to 1995 House Bill No. 1050, the 1995-96 interim Insurance and Health Care Committee conducted a study of the feasibility and desirability of mandating that mental health services and drug and alcohol addiction treatment services be included as covered services in health insurance policies issued in the state. The committee learned that North Dakota law requires group health insurance policies issued in the state to include coverage for mental health and substance addiction services, in the same manner as coverage is provided for other illnesses. Testimony received by the committee indicated that 90 percent of all health insurance policies issued in North Dakota are group policies and are subject to the mandatory coverage requirement for mental health and substance addiction services.

As a result of the study, the committee recommended two bills which were introduced to the 1997 Legislative Assembly:

- Senate Bill No. 2040, which required group health insurance coverage for mental health services to include residential treatment.
- Senate Bill No. 2041, which failed to pass, would have required group health insurance coverage for substance abuse treatment to include licensed addiction treatment programs.

#### **RELATED 2001 LEGISLATION**

**House Bill No. 1144** - The 2001 Legislative Assembly passed House Bill No. 1144, which provides that a health insurance policy may not be issued or renewed in North Dakota unless the policy includes the benefit provisions of the federal Women's Health and Cancer Rights Act of 1998. The federal Act requires health insurers that provide medical benefits for mastectomies to offer coverage for related surgery and reconstruction procedures. House Bill No. 1144 authorizes the Insurance Commissioner to enforce the provisions of the federal Act.

**Senate Bill No. 2331** - The 2001 Legislative Assembly considered, but did not pass, Senate Bill No. 2331, which would have mandated that insurance companies include in health insurance policies issued in North Dakota coverage for medically necessary treatment, services, therapy, equipment, and supplies for

individuals under 21 years of age. Opposition to the bill indicated it would restrict an insurance company's ability to determine if a therapy was medically necessary and would result in higher premium costs due to increased utilization.

## COST OF HEALTH INSURANCE MANDATES

Blue Cross Blue Shield of North Dakota has indicated that, based on claims incurred between August 1, 1999, and July 31, 2000, the annual cost of providing health insurance coverage for mandated benefits and services in North Dakota is as follows:

Mandated Benefits and Provider Services	Annual Cost
<b>Benefits</b>	
Alcohol and drug abuse treatment	\$4,176,377
Breast reconstruction	523,856
Dental anesthesia	76,252
Emergency services	45,804,202
Mammography screening	1,290,844
General mental health services	21,223,774
Minimum maternity stays	5,506,438
Prostate cancer screening	81,466
TMJ disorders	745,644
<b>Provider Services</b>	
Chiropractors	6,735,257
Nurse midwives	345,121
Nurse anesthetists	3,916,399
Nurse practitioners	2,304,480
Psychiatric nurses	408,210
Professional counselors	512,902
Psychologists	4,459,820
Licensed addiction counselors	879,991
Social workers	992,354
<b>Total</b>	<b>\$99,983,387</b>

## MANDATED HEALTH INSURANCE LAWS IN OTHER STATES

During calendar year 2000, five states (Kentucky, Massachusetts, New Mexico, South Carolina, and Utah) enacted laws mandating that health plans cover treatment of mental illness on an equivalent, or parity, basis with coverage provided for physical illnesses. Three states (Arizona, Maine, and New Hampshire) also enacted laws requiring health insurance coverage for patient costs incurred for participation in clinical trials. By contrast, during 2001, four states (Arkansas, Hawaii, North Dakota, and Vermont) enacted laws to restrict benefit mandates.

Attached as Appendix B is a map prepared by Blue Cross Blue Shield indicating the number of mandated health insurance benefit laws in various states. Most states, including North Dakota, have between 20 and 40 different mandated health insurance benefit laws, as defined by Blue Cross Blue Shield.

## PROPOSED STUDY PLAN

The following is a study plan the committee may want to consider in its study of health insurance coverage mandates and its duty to contract with a private entity for cost-benefit analysis services:

1. Receive information from the Insurance Commissioner before July 1, 2002, regarding a cost-benefit evaluation of existing health insurance coverage mandates and early identification and treatment programs.
2. Receive recommendations from the Insurance Commissioner regarding private entities to be contracted by the Legislative Council for conducting cost-benefit analysis of legislative measures that may be introduced in the 58th Legislative Assembly mandating health insurance coverage of services.
3. Receive information from interested organizations, entities, and individuals regarding private entities to be contracted by the Legislative Council for conducting cost-benefit analysis of future legislation mandating health insurance coverage of services.
4. Review information regarding the definition of "health insurance coverage mandate" and existing health insurance mandates in North Dakota.
5. Review information regarding health insurance coverage mandates in other states.
6. Review information regarding actions in other states to limit or repeal health insurance coverage mandates.
7. Receive information from **health insurers** regarding:
  - a. The costs of existing health insurance mandates and changes in costs to insurers and premium payors as a result of mandates.
  - b. The utilization of mandated health insurance coverage and changes in utilization as a result of legislative mandates.
  - c. The feasibility and desirability of repealing health insurance mandates.
8. Receive information from **health care providers** regarding the costs, benefits, and utilization of health care services for which health insurance coverage is mandated and the feasibility and desirability of repealing health insurance mandates.
9. Receive information from interested organizations, entities, and individuals regarding the costs, benefits, and utilization of health care services for which health insurance coverage is mandated and the feasibility and desirability of repealing health insurance mandates.

10. Develop recommendations to be provided to the Legislative Council and to the 2003 Legislative Assembly regarding:
  - a. Existing health insurance coverage mandates.
  - b. The feasibility and desirability of repealing state laws which mandate health insurance coverage.
  - c. Private entities to be contracted by the Legislative Council for cost-benefit analysis services.

ATTACH:2