

**Department of Human Services
Budget 325**

House Bill Nos. 1012, 1043, 1327, 1418, 1433, 1540, 1556; Senate Bill Nos. 2174, 2198, 2231, 2391

	FTE Positions	General Fund	Other Funds	Total
2009-11 legislative appropriation	2,216.88	\$652,145,814 ¹	\$1,638,250,137	\$2,290,395,951
2007-09 legislative appropriation	<u>2,223.38</u>	<u>593,916,230</u>	<u>1,290,890,297</u>	<u>1,884,806,527</u>
2009-11 appropriation increase (decrease) to 2007-09 appropriation	(6.50)	\$58,229,584	\$347,359,840	\$405,589,424

¹This amount includes \$4,296,298 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$647,849,516.

NOTE: The 2009-11 legislative appropriation amounts include \$2,650,000, of which \$1.5 million is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

Item Description

One-time funding - The Legislative Assembly identified \$4,296,298 from the general fund as one-time funding for the 2009-11 biennium. This amount relates to:

Extraordinary repairs	\$3,443,692
Equipment over \$5,000	352,606
Supplemental payments for small, rural critical access hospitals	400,000
Study of rates for public and private licensed developmental disabilities (DD) providers	100,000
Total	\$4,296,298

This amount is not to be considered part of the agency's base budget for preparing the 2011-13 executive budget, and the department is to report to the Appropriations Committees during the 2011 legislative session on the use of this funding.

Federal fiscal stimulus funding - The Legislative Assembly appropriated \$88,033,205 of federal fiscal stimulus funds from the American Recovery and Reinvestment Act of 2009. This funding, which is summarized as follows, except for the funding relating to the federal medical assistance percentage (FMAP) and funding of \$2,763,082 of child support incentive matching funds is not to be considered part of the agency's base budget for the 2011-13 biennium.

FMAP (enhanced FMAP effective October 1, 2008, through December 31, 2010)	\$66,500,000
Elderly nutrition services	485,000
Child support incentive matching funds	3,200,000
Rehabilitation services and disability assistance and independent living	2,043,000

Status/Result

The following is a summary of the status of the department's one-time funding:

Extraordinary repairs	The department anticipates using all the funds for completing extraordinary repairs at the State Hospital and the Developmental Center.
Equipment over \$5,000	The department anticipates using all the funds for purchasing equipment over \$5,000.
Supplemental payments for small, rural critical access hospitals	The department provided a payment of \$128,310 to the Presentation Medical Center in Rolla in March 2010 and will provide another payment of \$128,310 to the hospital in the second year of the biennium. The payment amount was the maximum amount allowed by the Centers for Medicare and Medicaid Services.
Study of rates for DD providers	See the Study of DD providers section below

The following is a summary of the federal fiscal stimulus funds appropriations, funding awards, and actual expenditures through March 2010:

Program	Legislative Appropriation/ Emergency Commission Authorization	Award	Expenditures (Through March 2010)
FMAP	\$66,500,000	¹	\$55,409,579
Elderly nutrition services	485,000	\$485,000	485,000
Child support incentive matching funds	3,200,000	¹	5,553,913
Rehabilitation services and disability assistance and independent living	2,043,000	2,042,913	252,358

Individuals With Disabilities Education Act - Part C	2,140,000
Supplemental nutrition assistance program (SNAP) benefits and administration	9,874,747
Senior employment program	143,288
Older blind	3,170
Early childhood care services (HB 1418)	3,644,000
Total	\$88,033,205

Subsequent to the 2009 legislative session, the department received Emergency Commission and Budget Section approval to accept and expend the following federal fiscal stimulus funds from the American Recovery and Reinvestment Act of 2009:

Temporary assistance for needy families (TANF) program grants funds for the caseload increase from 2007 to 2009	\$510,000
TANF program funds for subsidized employment costs to assist individuals exiting the program or to avoid entering the program	10,345,000
SNAP administrative funds	207,000
Total	\$11,062,000

In addition, the department notified the Emergency Commission and the Budget Section that the department received and spent an additional \$3.2 million of federal funds during the 2007-09 biennium from the American Recovery and Reinvestment Act of 2009 for child support incentive matching funds.

Federal medical assistance percentage - The Legislative Assembly anticipated the following FMAs in developing the department's 2009-11 biennium budget:

Federal Fiscal Year	North Dakota's FMAP	North Dakota's Enhanced FMAP
2009	63.15%	69.95%
2010	63.01%	69.95%
2011	60.69% (estimate)	69.95% (first quarter)

The FMAP determines the state and federal share of Medicaid, foster care, and other program costs within the department. The Legislative Assembly provided \$19.7 million of additional general fund support as a result of North Dakota's FMAP reductions projected for the 2009-11 biennium and provided a funding source change of \$66.5 million from the general fund to federal funds due to the enhanced FMAP included in the American Recovery and Reinvestment Act of 2009.

Individuals With Disabilities Education Act - Part C	2,140,000	2,398,294	0
SNAP benefits and administration	10,081,747	411,620 ²	10,444,219 ³
Senior employment program	143,288	143,288	50,673
Older blind	3,170	3,170	3,170
Early childhood care services	3,644,000	3,643,862	299,808
TANF program grants fund for caseload increase	510,000	¹	0
TANF subsidized employment costs	10,345,000	¹	368,393
Total	\$99,095,205	\$9,128,147	\$72,867,113

¹The grant award is not a specific amount. The award amount changes based upon actual expenditures.

²The grant award of \$411,620 relates to SNAP administration. The grant award for SNAP benefits is not a specific amount. The award amount for benefits changes based upon actual expenditures.

³Of the \$10,444,219, \$10,173,470 is for SNAP benefits and \$270,749 is for SNAP administration.

Actual FMAs are:

Federal Fiscal Year	North Dakota's FMAP	North Dakota's Enhanced FMAP
2009	63.15%	69.95%
2010	63.01%	69.95%
2011	60.35%	69.95% (first quarter)

As a result of the decreased FMAP for 2011, the department anticipates needing an additional \$1.4 million of funding from the general fund for the 2009-11 biennium if the enhanced FMAP provided for under the American Recovery and Reinvestment Act of 2009 is not extended through June 30, 2011.

Medicaid management information system (MMIS) - The 2005 Legislative Assembly appropriated \$29,188,859, of which \$3,667,820 was state matching funds from the permanent oil tax trust fund, to the department to rewrite MMIS. The 2007 Legislative Assembly provided additional funding of \$31,072,641, of which \$3,643,133 was state matching funds from the general fund, for the project. The department did not spend all of the state matching funds during the 2005-07 biennium and was authorized to continue the unspent funds into the 2007-09 biennium for the project. As a result, the department used these funds to obtain additional federal matching funds of \$2,267,871 for the project. The department has been authorized to continue any unspent funds in the 2009-11 biennium for the project. Total funding available for the project is:

	State Match	Federal Funds	Total
2005-07 appropriation	\$3,667,820	\$25,521,039	\$29,188,859
2007-09 appropriation	3,643,133	27,429,508	31,072,641
Additional federal matching funds		2,267,871	2,267,871
Total	\$7,310,953	\$55,218,418	\$62,529,371

Medical assistance - The schedule below provides a comparison of funding for medical assistance, excluding funding relating to nursing facility care and other long-term care services, DD grants, and Healthy Steps. The Legislative Assembly made a number of adjustments to the funding for medical assistance grants, including:

- Providing a 6 percent inflationary increase for the second year of the biennium for rebased services.
- Providing 6 percent annual inflationary increases for the biennium for all other providers.
- Adjusting funding for rebasing hospitals, physicians, chiropractors, ambulances, and dentists.
- Reducing funding to reflect a decrease in projected caseload/utilization rates.

Adding funding for a Bank of North Dakota line of credit if caseload/utilization rates are greater than anticipated.

	2007-09 Biennium	2009-11 Biennium	Increase (Decrease)
Total medical assistance	\$394,784,291	\$491,112,048	\$96,327,757
General fund	\$112,382,988	\$119,011,442	\$6,628,454
Federal funds	\$260,271,693	\$338,799,024	\$78,527,331
Community health trust fund	\$213,904	\$790,015	\$576,111
Estate collections	\$3,060,000	\$2,673,800	(\$386,200)
Retained funds	\$11,121,250	\$17,371,688	\$6,250,438
Contingent Bank of North Dakota loan proceeds	\$0	\$4,616,429	\$4,616,429
Other funds	\$7,734,456	\$7,849,650	\$115,194

As of May 2010 the MMIS rewrite project is behind the revised project schedule and will not be able to meet the revised April 2011 implementation date. At the close of the 2007 legislative session, the estimated project completion date was July 2009. The department and Affiliated Computer Services--the project vendor--are working on a revised project schedule. The department anticipates the project will be completed within budget. The following is a summary of the project budget:

	Budget	Expended (Through April 2010)	Balance Remaining
General fund	\$3,643,133	\$2,651,027	\$992,106
Federal funds	55,218,418	32,481,944	22,736,474
Other funds	3,667,820	1,732,257	1,935,563
Total	\$62,529,371	\$36,865,228	\$25,664,143

The department anticipates spending \$503,192,215, of which \$121,313,249 is from the general fund, \$344,556,952 is from federal funds, \$4,616,429 is from Bank of North Dakota loan proceeds, and \$32,705,585 is from other funds, for medical assistance for the 2009-11 biennium which is \$12,080,167 more than budgeted. Medical assistance payments are anticipated to be more than budgeted for inpatient hospital, outpatient hospital, physician services, and dental services and less than budgeted for prescription drugs.

Medicare Part D "clawback" payments - The Legislative Assembly appropriated \$19,416,262, of which \$18,624,262 is from the general fund and \$792,000 is from estate collections, for making Medicare Part D prescription drug "clawback" payments to the federal government for the estimated prescription drug costs paid by Medicare for individuals eligible for both Medicare and Medicaid.

Medicaid provider payments - The Legislative Assembly in Section 13 of House Bill No. 1012 provided legislative intent that the department establish a goal to set Medicaid payments for hospitals, physicians, chiropractors, and ambulances at 100 percent of cost.

Healthy Steps - The Legislative Assembly provided funding of \$21,632,536, of which \$5,598,799 is from the general fund and \$16,033,737 is from federal funds, for Healthy Steps (the children's health insurance program).

The Legislative Assembly made a number of adjustments to the funding for Healthy Steps, including:

- Increasing eligibility for the program from 150 percent to 160 percent of the federal poverty level.
- Adjusting funding to reflect utilization rejections and a revised premium amount.
- Adding funding of \$300,000 from the general fund for additional program outreach.

Nursing facilities - The schedule below provides a comparison of funding for nursing facility payments under the medical assistance program. The Legislative Assembly made a number of adjustments to the funding for nursing facilities, including:

- Providing 6 percent annual inflationary increases for the biennium for nursing facilities.
- Reducing funding to reflect a decrease in projected caseload/utilization rates.
- Adding funding for a Bank of North Dakota line of credit if caseload/utilization rates are greater than anticipated.

The department is required to make "clawback" payments monthly. The department estimates "clawback" payments to total \$15,614,386, of which \$15,371,700 is from the general fund and \$242,686 is from other funds, for the 2009-11 biennium which is \$3,801,876 less than budgeted. This reflects a credit of \$2,355,081 relating to the United States Department of Health and Human Services decision to apply the American Recovery and Reinvestment Act of 2009 enhanced FMAP to state clawback payments.

The department will consider establishing a goal to set Medicaid payments for hospitals, chiropractors, and ambulances at 100 percent of cost when the department prepares its budget request for the 2011-13 biennium.

Through March 2010 expenditures for Healthy Steps totaled \$6,042,779, of which \$1,562,935 is from the general fund and \$4,479,844 is from federal funds. The department anticipates spending \$20,460,880, of which \$5,281,363 is from the general fund and \$15,179,517 is from federal funds, for Healthy Steps for the 2009-11 biennium which is \$1,171,656 less than budgeted.

The following is a summary of the number of participants in Healthy Steps compared to estimates used to determine the legislative appropriation:

	Legislative Appropriation Estimate	Actual	Increase (Decrease)
August 2009	3,373	3,267	(106)
September 2009	3,477	3,207	(270)
October 2009	3,529	3,239	(290)
November 2009	3,581	3,207	(374)
December 2009	3,633	3,288	(345)
January 2010	3,685	3,330	(355)
February 2010	3,737	3,393	(344)
March 2010	3,789	3,431	(358)

The department has contracted with the Dakota Medical Foundation to conduct outreach efforts for the Healthy Steps program. The department anticipates spending all of the funding provided.

The department anticipates spending \$413,432,319, of which \$132,435,866 is from the general fund, \$276,763,106 is from federal funds, and \$4,233,347 is from other funds, for nursing facility payments for the 2009-11 biennium which is \$12,428,959 less than budgeted. The nursing facility payments are anticipated to be less than budgeted due to the cost per person receiving services being less than budgeted.

- Adding funding to provide a salary and benefit supplemental payment for individuals employed by nursing facilities, except for administrators and contract nursing.
- Adding funding to increase nursing facility bed limits in the formula for nursing home payments.

	2007-09 Biennium	2009-11 Biennium	Increase (Decrease)
Total nursing facilities	\$370,080,827	\$425,861,278	\$55,780,451
General fund	\$132,817,907	\$132,415,339	(\$402,568)
Federal funds	\$236,737,323	\$286,519,675	\$49,782,352
Health care trust fund	\$525,597	\$4,124,506	\$3,598,909
Contingent Bank of North Dakota loan proceeds	\$0	\$2,801,758	\$2,801,758

Developmental disabilities grants - The schedule below provides a comparison of funding for DD grants. The Legislative Assembly made a number of adjustments to the funding for DD grants, including:

- Providing 6 percent annual inflationary increases for the biennium.
- Reducing funding to reflect a decrease in projected caseload/utilization rates.
- Adding funding for a Bank of North Dakota line of credit if caseload/utilization rates are greater than anticipated.

Adding funding to provide a salary and benefit supplemental payment for individuals employed by DD providers, except for administrators.

	2007-09 Biennium	2009-11 Biennium	Increase (Decrease)
Total DD grants	\$274,423,470	\$341,542,546	\$67,119,076
General fund	\$95,952,600	\$110,730,341	\$14,777,741
Federal funds	\$174,970,870	\$229,621,551	\$54,650,681
Contingent Bank of North Dakota loan proceeds	\$3,500,000	\$1,190,654	(\$2,309,346)

Bank of North Dakota line of credit - The Legislative Assembly decreased funding for medical services, long-term care, and DD grants by \$47,798,809, of which \$17,676,000 was from the general fund to reflect decreases in projected caseload/utilization rates. The following is a summary of the funding reductions:

	General Fund	Other Funds	Total
Medical services	\$9,600,000	\$16,359,978	\$25,959,978
Long-term care	5,600,000	9,543,320	15,143,320
DD grants	2,476,000	4,219,511	6,695,511
Total	\$17,676,000	\$30,122,809	\$47,798,809

In addition, the Legislative Assembly added funding for a Bank of North Dakota line of credit of \$8.5 million if caseload/utilization rates are greater than anticipated, including \$14,485,398 of special funds for the related federal funding share.

The department anticipates spending \$340,036,514, of which \$110,139,117 is from the general fund, \$228,364,502 is from federal funds, and \$1,532,895 is from Bank of North Dakota loan proceeds, for DD grants for the 2009-11 biennium which is \$1,506,032 less than budgeted.

As of March 2010 the department estimates using \$6.1 million of the \$8.5 million Bank of North Dakota line of credit. The following is a summary of the areas in which the funding is anticipated to be used:

Medical assistance	\$4,616,429
Long-term care (nursing facilities)	0
DD grants	1,532,895
Total	\$6,149,324

Dementia care services - The 2009 Legislative Assembly in House Bill No. 1043 directed the department to contract for a dementia care services program in each area of the state served by a regional human service center to provide personalized care consultation services, training, and education relating to dementia. The Legislative Assembly appropriated \$1.2 million from the general fund for the program. The bill provides that the department report to the Legislative Management on the outcomes of the program.

Transition-aged youth at risk - House Bill No. 1044 (2009) provides that the department develop, within current appropriations, a program for services to transition-aged youth at risk.

Sale of land - House Bill No. 1214 (2009) authorizes the department to sell land at the Developmental Center in Walsh County.

Nursing facility grant - House Bill No. 1327 provides a \$200,000 special funds appropriation from the health care trust fund to the department for providing a grant to a nursing facility for costs associated with remodeling the facility to meet the requirements of an assisted living facility and a basic care facility. The facility receiving the grant is to use \$50,000 of the grant to conduct a rent subsidy pilot project for at least four assisted living residents.

The department has entered a contract with the Alzheimer's Association Minnesota-North Dakota Chapter for provision of a dementia care services program in each area of the state served by a regional human service center. The Alzheimer's Association has hired five regional care consultants to provide services in the state. The staff has been trained in all aspects of dementia and on the Mittelman service delivery intervention. The department will be providing a report to the Legislative Management's interim Long-Term Care Committee regarding the outcomes of the dementia care services program, including the estimated long-term care and health care costs avoided, and improvement in disease management and caregiver assistance.

The department has established a program for services to transition-aged youth at risk and has presented rules relating to the program to the Administrative Rules Committee in March 2010.

The department completed sale of land of 10.76 acres at the Developmental Center to the Grafton Park Board in May 2010. The agreed-upon purchase price was \$1,000.

The department has entered a contract with Golden Manor, Inc., Steele, with an effective date of March 1, 2010. The contract provides that:

- The grantee must meet the requirement of both an assisted living facility and a basic care facility.
- At least \$50,000 of the grant must be used to conduct a rent subsidy pilot project for at least four assisted living residents. The individuals receiving rent subsidy must be Medicaid-eligible and have a functional need as established by a county case manager in at least one activity of daily living. A functional assessment must be completed every 12 months for an individual receiving a rent subsidy. The monthly rent subsidy may not exceed \$1,000 per month or the difference between the base rent less one-third of the individual's monthly maintenance income.
- A written report must be submitted on the success of the rent subsidy pilot project compared to the basic care assistance program by December 1, 2010.
- A final written report is due by June 30, 2011.

The board of directors for Golden Manor, Inc., has determined that the cost estimates to renovate the 50-bed skilled care facility to a 10-bed basic care facility and 10 assisted living units were in excess of Golden Manor, Inc., resources. The board's current plan is to renovate one wing into five assisted living units and complete limited improvements to the rooms in the other two wings, which will be the locations for the basic care rooms. The board of directors is concerned that the assisted living rent subsidy pilot project may not be possible because of the contract requirements.

Study of DD providers - House Bill No. 1556 appropriates \$100,000 from the general fund and \$100,000 of special funds to the department for a study by the department of the methodology and calculations for the ratesetting structure for public and private licensed DD providers. The study is to address reimbursement adequacy and equitability and fairness of reimbursement rates among such providers; the level of medical and supportive services required by providers to adequately serve individuals in those categories; the varying levels of medical and behavioral complexity of individuals requiring services by the providers; and any other analytical comparisons bearing upon issues of reimbursement adequacy, fairness, and equitability to such providers.

Autism Spectrum Disorder Task Force - Senate Bill No. 2174 establishes an Autism Spectrum Disorder Task Force and provides a \$3,000 general fund appropriation to the department for paying for expenses of the task force.

Traumatic brain injury - Senate Bill No. 2198 provides a \$330,000 general fund appropriation to the department for providing services to individuals with traumatic brain injury.

The department has awarded a contract to Burns and Associates, Inc., and its subcontractor, Human Services Research Institute, in the amount of \$200,000 to complete the study. The contractors' preliminary conclusions include:

- North Dakota's current reimbursement system mixes a cost-based reimbursement structure with additional compensation specifically related to individuals who are medically fragile or behaviorally challenged. There is an inherent disconnect between providing funding on a needs basis and a cost basis.
- North Dakota's assessment tools, the interim ratesetting and budgeting process, and the audit and cost settlement process make operation of the state's current reimbursement system very complex and resource-intensive.
- In North Dakota, determining the appropriate payment for medically fragile or behaviorally challenged individuals is difficult for several reasons.
- North Dakota must determine whether payment should be need-based or cost-based and avoid mixing these methodologies.

An interim report is due by June 15, 2010, and the final report is due August 15, 2010.

The Autism Spectrum Disorder Task Force has met seven times. The task force has focused on:

- Developing a comprehensive analysis of current autism spectrum disorder services.
- Analysis of the most recent evidence-based services.
- Analysis of needed training and education.
- Analysis of the infrastructure and system development.
- Analysis of funding structures and possibilities.

The task force will develop a state autism spectrum disorder plan and present the plan to the Governor and the Legislative Management before July 1, 2010.

The following is a summary of the department's implementation of Senate Bill No. 2198:

Social and recreational services - The department entered a contract with HIT, Inc., for social and recreational services. The total amount of the contract is \$40,104 and provides for 1,440 hours of service at an hourly rate of \$27.85 for up to nine individuals.	\$40,104
Referral services, public awareness and education, peer mentoring services, and informal support services - The department entered a contract with the Head Injury Association of North Dakota for referral services, public awareness and education, peer mentoring services, and informal support services. The amount of the contract is \$112,200. Another contract for the provision of additional public awareness has been entered into in the amount of \$5,460.	117,660

Vocational rehabilitation - The department has budgeted \$111,540 for increased and specialized vocational rehabilitation and consultation to individuals with traumatic brain injury.	111,540
Quality assurance and training - The department has budgeted \$57,600 for quality assurance and training for home and community-based services case managers and others who provide services to individuals with traumatic brain injury.	57,600
Total	\$326,904

The department has held a joint meeting with the Adjutant General, Department of Veterans' Affairs, Superintendent of Public Instruction, and the State Department of Health to discuss ways to efficiently coordinate services to individuals with traumatic brain injury while avoiding duplication. Additional meetings will be held at least quarterly.

The department has entered a contract with Lutheran Social Services to complete the requirements of Senate Bill No. 2231.

The department has entered a contract with Odney Advertising in the amount of \$100,000 for informing the public about the alternatives-to-abortion program.

The department announced in June 2010 that the Medicaid program will receive \$730,685 for its share of two national settlements reached with different drug companies. Both settlements compensate Medicaid programs and various federal health care programs for harm suffered as a result of the companies' conduct. This funding will be deposited in the state's general fund.

The department has been awarded federal fiscal stimulus funds of \$3,643,862 for early childhood care services. As of March 31, 2010, the department has expended \$299,808 on quality improvement consultation and training, infant toddler training, and child care recruitment.

The department anticipates distributing all funding provided for basic care and nursing facility salary and benefit increases. The average salary increase provided to employees was 80 cents per hour.

Charitable emergency feeding network - Senate Bill No. 2231 provides a \$350,000 general fund appropriation to the department for contracting with a statewide provider of charitable food distribution services to address gaps in service, expand the recovery and distribution of surplus food supplies, and strengthen the capacity of the North Dakota charitable emergency feeding network.

Alternatives-to-abortion program - Senate Bill No. 2391 provides a special funds appropriation to the department from federal TANF block grant funds for the alternatives-to-abortion program.

Drug company settlement.

Early childhood care services - House Bill No. 1418 appropriates \$3,644,000 of federal fiscal stimulus funds to the department for implementing programs associated with early childhood care services.

Basic care and nursing facility salary and benefit increases - The Legislative Assembly provided \$17,977,513, of which \$5,512,441 is from the general fund, \$800,000 is from the health care trust fund, and \$11,665,072 is from federal funds, for providing supplemental payments to basis care and skilled nursing care facilities to allow for a salary and benefit increase for employees beginning July 1, 2009. Basic care and skilled nursing care facilities may not use the money received for providing salary and benefit enhancements to administrators or directors of nursing.

Developmental disabilities provider salary and benefit increases - The Legislative Assembly provided \$21,639,106, of which \$7,086,807 is from the general fund and \$14,552,299 is from federal funds, for providing supplemental payments to DD providers to allow for a salary and benefit increase for employees beginning July 1, 2009. Developmental disabilities service providers may not use the money received for providing salary and benefit enhancements to administrators.

Federal Patient Protection and Affordable Care Act - The Patient Protection and Affordable Care Act was signed into law on March 23, 2010. This federal health care reform law contains a number of requirements and programs that will be phased-in over the next nine years, including the expansion of the Medicaid program to low-income individuals at or below 133 percent of the federal poverty level.

The department anticipates distributing all funding provided for DD provider salary and benefit increases. The average salary increase provided to employees was \$1 per hour.

The department estimates the state share of administrative and grant costs relating to health care reform impacts through calendar year 2019 to total \$106 million.