

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HUMAN SERVICES COMMITTEE

Tuesday, October 25, 2011
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Alon Wieland, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Alon Wieland, Roger Brabandt, Donald L. Clark, Tom Conklin, Curt Hofstad, Robert Kilichowski, Vonnie Pietsch, Chet Pollert, Jim Schmidt; Senators Dick Dever, Robert Erbele, Tim Mathern, Joe Miller, Gerald Uglen

Members absent: Representatives Dick Anderson, Kathy Hogan, Richard Holman

Others present: See [Appendix A](#)

It was moved by Senator Mathern, seconded by Representative Pollert, and carried on a voice vote that the minutes of the August 2, 2011, meeting be approved as distributed.

STUDY OF GUARDIANSHIP SERVICES

Ms. Jan Engan, Director, Aging Services Division, Department of Human Services, provided information ([Appendix B](#)) regarding current guardianship services provided through the department's Aging Services Division. She said the department's legislative appropriation for the 2011-13 biennium includes funding of \$104,000 from the general fund for providing guardianship services to vulnerable adults who are not developmentally disabled. She said the funding will be used to assist with petitioning and other related costs and will allow the department to assist at a minimum with establishment of 32 guardianships in the 2011-13 biennium. She said the number will vary based on actual costs and the ability to secure pro bono services. She said the funding will also allow the department to provide guardians an annual payment of \$500 to assist with some costs associated with being a guardian. To date, she said, the department has processed nine applications for guardianship. Of the nine, she said, one was withdrawn by the case manager, three were denied, and five were approved.

Ms. Tina Bay, Director, Developmental Disabilities Division, Department of Human Services, provided information ([Appendix C](#)) regarding current guardianship services provided through the department's Developmental Disabilities Division. She said the division contracts with Catholic Charities North Dakota to provide corporate guardianship services on behalf of individuals with developmental disabilities who are at least 18 years of age and do not have family or friends available to serve as a guardian. She said the contract specifies that

Catholic Charities North Dakota can accept only referrals from developmental disabilities program managers from the regional human service centers. She said the guardianship division of Catholic Charities North Dakota currently has nine full-time employees and four part-time employees. For the period July 2010 through June 2011, she said, Catholic Charities North Dakota provided services on behalf of 428 individuals.

Ms. Bay said the contract with Catholic Charities North Dakota for the 2011-13 biennium totals \$2,052,416 for serving a total of 414 individuals per day. She said the daily rate is \$6.52 per individual for the first year of the biennium and \$6.71 per individual for the second year. She said included in the funding is \$51,720 to pay for petitioning costs for indigent individuals with developmental disabilities who have been referred to the corporate guardianship program. As of July 1, 2011, she said, Catholic Charities North Dakota was providing services on behalf of 409 individuals--381 who live in communities and 28 who reside at the Developmental Center. She said Catholic Charities North Dakota anticipates reaching the capacity of 414 individuals by the end of October 2011. At that time, she said, all pending referrals will be placed on a waiting list.

In response to a question from Senator Mathern, Ms. Engan said there may be other corporate guardianships in the state besides those established through the department's Developmental Disabilities Division.

Mr. Jim Ganje, staff attorney, State Court Administrator's office, distributed testimony ([Appendix D](#)) from Ms. Sally Holewa, State Court Administrator, Supreme Court, regarding the number of guardianships appointed by the court system. He said guardianships and conservatorships are closely related court actions. He said a guardian is responsible for decisions in all aspects of an individual's life while a conservator is responsible for an individual's estate and finances. He said guardianships and conservatorships for 2008 through 2010 are:

| Year | New Filings | Continuing Cases | Total Cases With Activity Occurring Within the Year |
|------|-------------|------------------|---|
| 2008 | 285 | 1,342 | 1,627 |
| 2009 | 325 | 1,267 | 1,592 |
| 2010 | 323 | 2,038 | 1,715 |

In response to a question from Senator Mathern, Mr. Ganje said a guardian or conservator must file certain documents on an annual basis and may periodically make application to the court to dispose of the individual's property or appear before the court to explain their accounting.

The Legislative Council staff presented a memorandum entitled [Study of Guardianship Services - Information Regarding the Request for Proposal and Proposal Responses](#). The Legislative Council staff said on August 31, 2011, the Legislative Council issued a request for proposal for consultant services for assistance in a study of guardianship services for vulnerable adults in North Dakota. Proposals were due to the Legislative Council office on Friday, September 30, 2011. The Legislative Council staff said two proposals were received-- Mr. Winsor C. Schmidt, J.D., LL.M., University of Louisville School of Medicine, Louisville, Kentucky, and North Dakota Center for Persons with Disabilities, Minot State University, Minot.

Mr. Schmidt provided information ([Appendix E](#)) regarding a proposal for the guardianship services study. He said his proposed project plan is:

- Review the number of guardians appointed by the courts in North Dakota and identify the unmet need for guardianship services in the state.
- Review the services available for assistance with the establishment of guardianships, review the process for the establishment of guardianships, and recommend proposed changes.
- Identify petitioning and other costs associated with providing guardianship and public administrator services and financial assistance available, including costs per public guardianship client and costs incurred by not providing timely and appropriate guardianship services.
- Identify the entities responsible for guardianship and public administrator costs in North Dakota.
- Address and assess the interaction between the courts, counties, state agencies, and guardianship organizations regarding guardianship services and recommend proposed changes based on established models, standards, and best practices.
- Review North Dakota's statutes governing guardianship and public administrator services, evaluate the effectiveness of the statutes compared to other states and national models, and recommend proposed changes.
- Identify appropriate alternative duties and responsibilities for entities involved in guardianship services, financial responsibilities, and the role for public administrators in providing guardianship services and provide estimated costs for the 2013-15 biennium.

In response to a question from Senator Mathern, Mr. Schmidt said he would complete most of the study personally, but he does have access to assistance from other individuals at the University of Louisville School of Medicine.

In response to a question from Representative Wieland, Mr. Schmidt said he can complete the study by June 1, 2012.

In response to a question from Representative Wieland, Mr. Schmidt said he would provide periodic status reports to the committee as requested.

In response to a question from Representative Pollert, Mr. Schmidt said the proposal cost of \$50,000 is inclusive of all costs, and he anticipates making three 5-day trips to the state to gather information.

Dr. Lori Ganes, Associate Director of Development, North Dakota Center for Persons with Disabilities, provided information ([Appendix F](#)) regarding a proposal for the guardianship services study. She said the center strives to meet the needs of North Dakota citizens through projects that address the needs of individuals with disabilities, their families, service providers, educators, and policymakers. She said the center's proposed project plan is:

- Phase 1 - Analysis of existing systems
 - Identify the number of people with guardians and the number of requests for guardianship services.
 - Review of the current services available for assistance with the establishment of guardianships through the use of surveys and interviews with consumers, the Department of Human Services, the North Dakota Long Term Care Association, the State Bar Association of North Dakota, the Protection and Advocacy Project, the State Hospital, and guardianship service provider organizations.
 - Review current systems to identify satisfaction, costs, and efficacy of the systems.
- Phase 2 - Analysis, support, recommendations, and final report
 - Review the duties and responsibilities of state courts, counties, state agencies, and guardianship organizations and recommend proposed changes.
 - Evaluate the efficacy of statutes governing guardianship and public administrator services and recommend proposed changes.
 - Prepare a final report that will delineate appropriate duties and responsibilities for entities involved in guardianship services, financial responsibilities, costs, and the appropriate role for public administrators in providing guardianship services.

In response to a question from Senator Mathern, Dr. Ganes said the center is a division of Minot State

University. She said the center is not a part of any other state agency.

In response to a question from Senator Miller, Dr. Garnes said the center has not lobbied for legislation relating to guardianship services.

In response to a question from Representative Pollert, Dr. Garnes said the center would contract with the Protection and Advocacy Project to assist it in evaluating the efficacy of statutes governing guardianship and public administrator services.

In response to a question from Representative Wieland, Dr. Garnes said the center can complete the study by June 1, 2012.

It was moved by Senator Miller and seconded by Representative Pollert that the committee recommend the Legislative Management chairman enter a contract with Mr. Winsor C. Schmidt for consulting services for the study of guardianship services.

Senator Mathern suggested the committee would be best served by utilizing the expertise of both of the consultants.

Senator Miller said he would not support entering contracts with both consultants.

After discussion, **the motion carried on a roll call vote.** Representatives Wieland, Hofstad, Kilichowski, Pietsch, Pollert, and Schmidt and Senators Uglem, Dever, Erbele, and Miller voted "aye." Representatives Brabandt, Clark, and Conklin and Senator Mathern voted "nay."

STUDY OF THE QUALIFIED SERVICE PROVIDER SYSTEM

Ms. Karen Tescher, Assistant Director, Long-Term Care Continuum, Medical Services Division, Department of Human Services, provided information ([Appendix G](#)) regarding enrollment of a qualified service provider (QSP), the number of QSPs, QSP rates, expenditures relating to QSP services, and suggested changes for the QSP system. To become enrolled as a QSP, she said, an individual or agency must submit appropriate forms to the Department of Human Services. She said the forms are on the department's website or available at a county social services office. She said the department has a contract with Lake Region State College to provide training for individuals interested in becoming a QSP. She said there are specific competencies that must be met prior to becoming a QSP and for reenrollment every two years. She said currently there are 1,597 individual QSPs and 142 agency QSPs.

Ms. Tescher said QSP rates vary by the type of service being provided. She said most common services are personal care, respite care, and homemaker. For fiscal year 2012, she said, the individual QSP rate is \$4.28 per 15-minute unit and the agency QSP rate is \$5.97 per 15-minute unit. She provided the following summary of QSP rates:

| Rate Effective Date | Individual QSP Rate (15-Minute Unit) | Agency QSP Rate (15-Minute Unit) |
|---------------------|--------------------------------------|----------------------------------|
| July 1, 2009 | \$3.92 | \$5.47 |
| July 1, 2010 | \$4.16 | \$5.80 |
| July 1, 2011 | \$4.28 | \$5.97 |

Ms. Tescher provided the following summary of QSP service expenditures by program and funding source for the 2009-11 biennium:

| Program | General Fund | Federal Funds | Other Special Funds | Total |
|--|---------------------|---------------------|---------------------|---------------------|
| Basic care (personal care) | \$2,367,206 | \$9,255,366 | \$1,740,549 | \$13,363,121 |
| Personal care community | 7,150,025 | 15,852,467 | | 23,002,492 |
| Targeted case management | 401,377 | 876,520 | | 1,277,897 |
| Service payments for elderly and disabled (SPED) | 11,081,443 | | 583,221 | 11,664,664 |
| Expanded SPED | 679,041 | | | 679,041 |
| Home and community-based services waiver | 2,616,244 | 5,751,139 | | 8,367,383 |
| Technology dependent Medicaid waiver | 75,572 | 164,122 | | 239,694 |
| Developmental disabilities Medicaid waiver | 329,815 | 668,113 | | 997,928 |
| Total | \$24,700,723 | \$32,567,727 | \$2,323,770 | \$59,592,220 |

Ms. Tescher said the department is exploring the possibility of providing additional oversight of QSPs by making visits to the clients' homes to ensure that the care being delivered is meeting the competency standards.

In response to a question from Representative Schmidt, Ms. Tescher said the additional oversight of QSPs would allow the department to talk with the clients about satisfaction with their care and to view the environment to determine if care is being delivered appropriately.

In response to a question from Representative Pollert, Ms. Tescher said the department has established a process by which individuals can report issues with QSPs and QSP care.

Representative Pollert suggested the committee receive information regarding complaints the department has received regarding QSPs and QSP care. Chairman Wieland said the committee would request that information for a future meeting.

In response to a question from Representative Pollert, Ms. Tescher said there is a shortage of QSPs in certain rural areas of the state.

In response to a question from Senator Mathern, Ms. Tescher said the department has not completed a market job analysis comparing the actual need for QSP services with QSP availability. She said the department will review the possibility of providing that information.

In response to a question from Representative Pollert, Ms. Tescher said the agency QSP rate is higher than the individual QSP rate because the agency QSP rate includes funding for overhead costs of agencies.

Representative Pollert suggested the committee receive information regarding the amount of funding appropriated for QSP rate increases for the 2009-11 and 2011-13 bienniums. Chairman Wieland said the committee would request that information for a future meeting.

Ms. Marie Thompson, case manager, Burleigh County Social Services, provided comments regarding the committee's study of the QSP system. She said the committee should consider the possibility of providing a rate increase for QSPs working nights, evenings, and weekends and QSPs traveling to rural areas.

In response to a question from Senator Dever, Ms. Thompson said QSPs are paid only for time they are providing services to clients.

Chairman Wieland suggested Ms. Thompson provide the committee with specific recommendations at a future meeting.

Mr. Chuck Stebbins, Disability Resource Specialist, North Dakota Center for Persons with Disabilities, provided comments regarding the committee's study of the QSP system. He said independent QSPs are important providers in the home and community-based services system. He said many elderly and people with disabilities are choosing to use the home and community-based services system to continue to live in their homes as long as possible rather than enter a nursing facility.

Ms. Tammy Theurer, Regional Director, North Dakota Association for Home Care, provided comments regarding the committee's study of the QSP system. She said QSP services are provided by individuals, proprietary agencies, and home health care agencies. She said funding shortfalls have forced many home health care agencies to discontinue their QSP services. She suggested the payment rate be increased for travel costs relating to QSP services or to increase reimbursement rates for home health services.

OTHER COMMITTEE RESPONSIBILITIES

Ms. JoAnne Hoesel, Director, Division of Mental Health and Substance Abuse Services, Department of Human Services, provided information ([Appendix H](#)) regarding the status of the substance abuse services pilot voucher payment program. She said Senate Bill No. 2326 (2011) provides that the department is to establish and administer a pilot voucher payment program to provide substance abuse services for the 2011-13 biennium. She said the department is to apply for funding available through a federal Access to Recovery grant program available from the federal Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment. She said the center does not anticipate an Access to Recovery grant announcement for three years. She said the department will continue to monitor the grant's potential announcement.

The committee recessed for lunch at 12:01 p.m. and reconvened at 12:45 p.m.

STUDY OF THE AUTISM SPECTRUM DISORDER

Ms. Bay provided information ([Appendix I](#)) regarding specific services provided for individuals with an autism spectrum disorder through the infant development program, Developmental Disabilities Division, Vocational Rehabilitation Division, and Mental Health and Substance Abuse Division and the status of its regional autism spectrum disorder centers of early intervention and achievement pilot program. She said the infant development program is a home-based, family-focused service that provides information, support, and training to assist families of eligible infants and toddlers at high risk for or with developmental delays or disabilities. She said services include home visits, consultations, evaluations and assessments, and individual family service plan development. She said eight providers are licensed in the state to provide early intervention and infant development services. These providers are:

- Opportunity Foundation - Williston.
- Minot Infant Development Program - Minot.
- Anne Carlsen Center - Lake Region Kids, Devils Lake; Northeast Kids, Grand Forks; Southeast Kids, Fargo; and South Central Kids - Jamestown.
- Early Intervention Partners - Fargo.
- Bismarck Early Childhood Education Program - Bismarck.
- Three Speed Early Intervention - Bismarck and Standing Rock Reservation.
- Standing Rock Early Childhood Transition - Standing Rock Reservation.
- HIT, Inc. - K.I.D.S. - Dickinson.

Ms. Bay provided the following information regarding the number of consumers during July 2010 through June 2011 with an autism spectrum disorder diagnosis that received developmental disabilities program management:

| Age Group | Unduplicated Count |
|--------------------------|--------------------|
| Less than 3 years of age | 11 |
| 3-4 | 34 |
| 5-11 | 194 |
| 12-17 | 160 |
| 18-25 | 167 |
| Older than 25 | 168 |
| Total | 734 |

Ms. Bay said the Vocational Rehabilitation Division served 94 clients in federal fiscal year (FFY) 2011 (October 1, 2010, through September 30, 2011) that had a primary disability of autism spectrum disorder.

In the area of mental health, Ms. Bay said the department's regional human service centers do not provide specific autism spectrum disorder services. She said the majority of specific autism spectrum disorder therapies are provided by private providers in the state. She provided the following summary of the number of individuals with an autism spectrum disorder diagnosis that received services at the human service centers between July 1, 2010, and June 30, 2011:

| Age Group | Unduplicated Count |
|---------------|--------------------|
| 5-11 | 45 |
| 12-17 | 63 |
| 18-25 | 56 |
| Older than 25 | 73 |
| Total | 237 |

Ms. Bay said Senate Bill No. 2268 (2011) provides that the department may use up to \$200,000 of its legislative appropriation for the 2011-13 biennium to establish and operate a regional autism spectrum disorder centers of early intervention and achievement pilot program. At this time, she said, the department does not anticipate having the funding available for this purpose.

Ms. Vicki Peterson, Bismarck, provided comments ([Appendix J](#)) regarding the committee's study of the diagnosis and early treatment of, care for, and education of individuals with autism spectrum disorder. She said the committee should look at education, job coaching, and independency for the growing population of adults with autism spectrum disorders. She said the Legislative Assembly should receive input from the families that are impacted by individuals with autism spectrum disorders.

Ms. Peterson distributed additional testimony ([Appendix K](#)) from two other families regarding the committee's study of the diagnosis and early treatment of, care for, and education of individuals with autism spectrum disorder.

Ms. Kris Wallman, Fargo, provided comments regarding the committee's study of the diagnosis and early treatment of, care for, and education of

individuals with autism spectrum disorder. She said her son has Asperger's syndrome. She said many schools in North Dakota are not able to handle students with autism spectrum disorders. She said there is a need for coordination of services between families, communities, and schools.

In response to a question from Senator Mathern, Ms. Wallman said she has worked with others to form the Red River Valley Asperger Network--a not-for-profit entity--to provide information and support for anyone affected by Asperger's syndrome or another autism spectrum disorder.

Ms. Janna Robinson provided comments ([Appendix L](#)) regarding the committee's study of the diagnosis and early treatment of, care for, and education of individuals with autism spectrum disorder. She said her daughter was diagnosed with autism spectrum disorder on July 15, 2010, at 25 months of age. After months of applied behavior analysis, she said, her daughter was diagnosed with autistic disorder remission. She said her daughter currently attends preschool with her peers and is a happy three-year-old.

Mr. Carl Young, Garrison, provided comments regarding the committee's study of the diagnosis and early treatment of, care for, and education of individuals with autism spectrum disorder. He said he has three sons with an autism spectrum disorder diagnosis. He said his family moved from Bismarck to Garrison to allow the children to attend a smaller school district. He said treatment options in rural areas are almost nonexistent.

Ms. Toby Cherney, Jamestown, provided comments ([Appendix M](#)) regarding the committee's study of the diagnosis and early treatment of, care for, and education of individuals with autism spectrum disorder. She said her son received an autism spectrum disorder diagnosis in August 2010 at age 3. She said her son was the first child on the Department of Human Services' autism spectrum disorder waiver. She said she is concerned about services available to her family after her son is no longer eligible for the waiver.

Ms. Heather Wittliff, Minot, provided comments regarding the committee's study of the diagnosis and early treatment of, care for, and education of individuals with autism spectrum disorder. She said her son has an autism spectrum disorder diagnosis. She said it has been difficult to find services in Minot.

Mr. Eric Monson, Chief Executive Officer, Anne Carlsen Center, Jamestown, provided comments ([Appendix N](#)) regarding the diagnosis and early treatment of, care for, and education of individuals with autism spectrum disorder. He said the Anne Carlsen Center has begun and will expand autism spectrum disorder services in the major communities throughout the state. He said the services will provide an array of activities and program options for individuals and their families, including diagnostics, comprehensive evaluations, program planning and

development, intervention services, referral and family support services, and education and training.

Mr. Monson said the Anne Carlsen Center will continue to collaborate with the Department of Human Services, medical personnel, allied health professionals, residential support services, and school personnel to ensure consistency and continuity of interventions for individuals and their families and to ensure that families and providers are well-informed and knowledgeable regarding all aspects of an individual's program and care.

In response to a question from Senator Mathern, Mr. Monson said the Anne Carlsen Center plans to offer autism spectrum disorder services in western North Dakota.

In response to a question from Representative Hofstad, Mr. Monson said the Autism Spectrum Disorder Task Force is meeting on a quarterly basis. He said there needs to be more coordination of services.

Chairman Wieland encouraged families and treatment providers to provide specific proposals to the committee for its consideration.

STUDY OF DEPARTMENT OF HUMAN SERVICES' CASELOADS AND PROGRAM UTILIZATION

The Legislative Council staff presented a memorandum entitled [North Dakota's Federal Medical Assistance Percentage - 2013](#). The Legislative Council staff said North Dakota's federal medical assistance percentage (FMAP) for FFY 2013 (October 1, 2012, through September 30, 2013) will be 52.27 percent, a decrease of 3.13 percent from North Dakota's 2012 FMAP of 55.40 percent and a decrease of 3.29 percent from the 55.56 percent estimate released by Federal Funds Information for States (FFIS) in March 2011. In 2011 the Legislative Assembly provided an additional \$104.9 million of general fund support to the Department of Human Services to provide for additional state matching requirements resulting from the anticipated reduction in North Dakota's FMAP during the 2011-13 biennium compared to the 2009-11 biennium. The Legislative Assembly used an estimated FMAP of 55.40 percent for FFY 2013 in developing the Department of Human Services' 2011-13 biennial budget.

The Legislative Council staff said the 2013 FMAP will affect the final 10 months of the 2011-13 biennium appropriation. Each percentage change in the FMAP affects the state general fund matching requirements by approximately \$8.14 million per year. Based on these estimates, the department anticipates needing an additional \$21.2 million of general fund matching funds for state fiscal year 2013.

Ms. Brenda Weisz, Chief Financial Officer, Department of Human Services, provided information ([Appendix O](#)) regarding the status of the department's 2011-13 legislative appropriation, including information regarding the fiscal impact of the state's decreased FMAP for 2013. She said the state's decreased FMAP for 2013 could result in an estimated general fund need of \$21.2 million. She said it is too early in the biennium to determine the department's actual caseloads and budget variances.

Ms. Carol Cartledge, Director, Economic Assistance Policy Division, Department of Human Services, provided information ([Appendix P](#)) regarding historical caseloads and program utilization for Economic Assistance Division programs. She provided the following summary:

| | Temporary Assistance for Needy Families (TANF) ¹ | Low-Income Home Energy Assistance Program (LIHEAP) ² | Child Care Assistance ³ | Supplemental Nutrition Assistance Program (SNAP) ⁴ |
|-----------------------------------|---|---|------------------------------------|---|
| State fiscal year averages | | | | |
| 2006 | 2,708 | 5,737 | 4,060 | 19,214 |
| 2007 | 2,560 | 5,872 | 3,955 | 19,926 |
| 2008 | 2,590 | 5,732 | 4,054 | 21,572 |
| 2009 | 2,440 | 6,353 | 3,810 | 23,104 |
| 2010 | 2,147 | 6,265 | 3,787 | 26,686 |
| 2011 | 1,925 | 6,100 | 3,589 | 27,857 |
| Biennial averages | | | | |
| 2005-07 | 2,634 | 5,805 | 4,003 | 19,570 |
| 2007-09 | 2,515 | 6,042 | 3,932 | 22,338 |
| 2009-11 | 2,036 | 6,182 | 3,685 | 27,272 |
| 2011-13 | 2,253 | 6,879 | 3,915 | 33,890 |

¹The TANF caseload has decreased over time due to the 2005 Deficit Reduction Act which identified work activities for adults in TANF families, the 2009 pay after performance policy implementation, and the economic climate in North Dakota. At the time the budget for the 2011-13 biennium was established (summer of 2010), the projected caseload was decreased. However, the actual caseload from the summer of 2010 to the end of the biennium was even lower than anticipated.

²The LIHEAP caseload is developed based on weather projections and fuel price projections.

³The child care assistance caseload has decreased over time due to the economic climate in North Dakota. Increased household incomes have resulted in ineligibility or lower payments through the program. At the time the budget for the 2011-13 biennium was established (summer of 2010), the projected caseload was decreased. However, the actual caseload from the summer of 2010 to the end of the biennium was even lower than anticipated.

⁴The SNAP caseload has increased over time due to the 2006 implementation of simplified reporting, which makes it easier for households to be on the program for longer periods of time. In addition, federally required outreach efforts have also increased the number of SNAP cases.

Ms. Tara Muhlhauser, Director, Children and Family Services Division, Department of Human Services, provided information ([Appendix Q](#)) regarding historical caseloads and program utilization for Children and Family Services Division programs. She provided the following summary:

| | Foster Care ¹ | Subsidized Adoption ² |
|-----------------------------------|--------------------------|----------------------------------|
| State fiscal year averages | | |
| 2006 | 968 | 744 |
| 2007 | 869 | 816 |
| 2008 | 760 | 877 |
| 2009 | 768 | 946 |
| 2010 | 768 | 980 |
| 2011 | 736 | 1,028 |
| Biennial averages | | |
| 2005-07 | 918 | 780 |
| 2007-09 | 764 | 912 |
| 2009-11 | 752 | 1,004 |
| 2011-13 | 861 | 1,073 |

¹The foster care caseload decrease is due to state and federal emphasis on family preservation programs and practices in place to support permanency. This practice reduces the number of children in foster care while maintaining children in their homes or securing a permanent placement for children in adoptive homes. The caseload budgeted for the 2011-13 biennium includes a slight increase to address additional tribal Title IV-E cases and youth over the age of 18 who choose to remain in foster care.

²The subsidized adoption program for children with special needs continues to increase based on the federal mandate and practice of the permanency outcome of adoption for children formerly in foster care.

In response to a question from Senator Dever, Ms. Muhlhauser said the caseloads for the Bismarck and Mandan area appear to be lower due to the Youthworks program operating in the area.

Ms. Maggie Anderson, Director, Medical Services Division, Department of Human Services, provided information ([Appendix R](#)) regarding the estimated impact of the federal Affordable Care Act on the department's anticipated caseloads and budget and potential appropriation requests to be considered by the Legislative Assembly during its November 2011 special session. Effective January 1, 2014, she said, Medicaid will be expanded to include all individuals under age 65 (children, pregnant women, parents, and adults without dependent children) with incomes up to 133 percent of the federal poverty level based on modified adjusted gross income. She said the Affordable Care Act also authorizes an across-the-board 5 percent income disregard effectively making the income level 138 percent.

Ms. Anderson said all newly eligible adults will be guaranteed a benchmark benefit package that at least provides the essential health benefits as defined for the health benefit exchange. She said the newly eligible population will be covered with 100 percent federal financing for 2014 through 2016, 95 percent federal financing in 2017, 94 percent federal financing in 2018, 93 percent federal financing in 2019, and 90 percent federal financing for 2020 and subsequent years.

Based on estimates prepared in 2010, Ms. Anderson said the department is expecting the state's Medicaid caseload to increase by up to 50 percent because of the expansion. She said the department is analyzing several items to determine their full impact on the estimated expansion numbers, including:

- A notice of proposed rulemaking issued by the Centers for Medicare and Medicaid Services (CMS) proposed that Medicaid will no longer count child support as income. This has the potential to make more children and caretakers eligible for Medicaid.
- The notice of proposed rulemaking would require children aged 6 to 19, who are between 100 percent and 133 percent of the federal poverty level and currently enrolled in the children's health insurance program (CHIP), to be moved to Medicaid. The state would continue to receive the enhanced CHIP federal match for this population.
- The state continues to seek clarity on how the medically needy population will be accounted for with the expansion.

Ms. Anderson said the department expects the proposed Medicaid rules to be finalized in 2012. She said the department will use the final rules and any other guidance issued by CMS to prepare the estimates needed for the 2013-15 biennium.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Wieland said the committee's next meeting will be on Tuesday, January 17, 2012, in Bismarck.

No further business appearing, Chairman Wieland adjourned the meeting at 3:22 p.m.

Roxanne Woeste
Assistant Legislative Budget Analyst and Auditor

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:18