NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

INSURANCE AND HEALTH CARE COMMITTEE

Wednesday, October 22, 1997
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Karen K. Krebsbach, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Karen K. Krebsbach, Jerry Klein; Representatives Michael Brandenburg, Mike Callahan, Ron Carlisle, David Drovdal, Pam Gulleson, Kenneth Kroeplin, Clara Sue Price, Wanda Rose

Members absent: Senator Judy L. DeMers; Representatives Thomas T. Brusegaard, Al Carlson, Alice Olson, John M. Warner

Others present: See Appendix A

It was moved by Representative Drovdal, seconded by Representative Carlson, and carried on a voice vote that the minutes of the July 28, 1997, meeting be approved as mailed.

ANNUAL REPORT - PARTNERSHIP FOR LONG-TERM CARE PROGRAM

Chairman Krebsbach called on Ms. Beth Allen, Life and Health Analyst, Insurance Department, to present the annual report on the progress of the partnership for long-term care program. Ms. Allen provided a copy of the written annual report, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Price, Ms. Allen said she is not certain whether the 1993 statistic--four percent of long-term care costs are being paid by long-term care insurance--is still accurate in 1997.

In response to a question from Representative Drovdal, Ms. Allen said she is not aware of any long-term care programs specially designed for people with preexisting conditions. She said the partnership for long-term care program essentially applies to healthy individuals doing estate planning.

EFFECTS OF MANAGED CARE ON RURAL NORTH DAKOTA STUDY

Chairman Krebsbach called on committee counsel to present a memorandum entitled *Managed Care - Profit Versus Nonprofit* and to review examples of measures taken by other states to protect managed care consumers.

Committee counsel reviewed Health Policy Tracking Service issue briefs addressing willing provider measures, direct access measures, comprehensive consumer rights bills, point of service measures, bans on gag clauses, emergency care services measures, and mandated benefits. Copies of the Health Policy Tracking Service issue briefs are on file in the Legislative Council office. She also distributed copies of Texas legislation that requires utilization review.

In response to a question from Representative Drovdal, committee counsel said examples of successful rural managed care programs in North Dakota include those in Rugby and Hazen. She said Minnesota has enacted legislation that provides incentives for health maintenance organizations in smaller communities, e.g., lessening the reporting requirements for health maintenance organizations in small rural communities.

In response to a question from Representative Gulleson, Mr. Michael Mullen, Policy Analyst, Department of Health, said the Health Council's Health Care Data Committee collects data on the average charges made by physicians in the state, and this data base is in the process of being updated. He said a data base is being designed to track the charges made by the state's larger third-party payers, but this data does not include the premium amount.

In response to a question from Representative Gulleson, Mr. Mullen said regarding the use of this physician information by consumers, the information is available, the information is phrased in clear language, and this information will soon be available on the department's web page. Representative Gulleson requested that North Dakota insurance companies be requested to address the committee at a future meeting regarding whether they have implemented lifetime caps on managed care policies.

Chairman Krebsbach called on Mr. Fred Gladden, Chief, Health Resources, Department of

Health, for comments regarding the Balanced Budget Act of 1997, which in part establishes the Medicare rural hospital flexibility program and allows for critical access hospitals. Mr. Gladden distributed written testimony, a copy of which is attached as Appendix B.

In response to a question from Senator Krebsbach, Mr. Gladden said the changes in federal law affect the Social Security Act. He said the status of critical access hospitals is up in the air until the state adopts a plan. He said the federal legislation does not set a timeline for completion of the critical access plan; however, he recommends establishing a plan as soon as possible so the plan is in place and available when the time is right to use it.

In response to a question from Representative Drovdal, Mr. Gladden said he is not aware of any pending federal legislation that is intended to help rural hospitals survive, and North Dakota hospitals have not had time to respond to the critical access hospital legislation.

In response to a question from Representative Drovdal, Mr. Brad Gibbens, Associate Director, University of North Dakota Center for Rural Health, School of Medicine and Health Sciences, said the federal legislation regarding critical access hospitals is in response to an ongoing evolution of rural hospitals. He said the federal legislation provides flexibility and allows North Dakota to create a plan that fits the state's needs.

In response to a question from Representative Drovdal, Mr. Tom Solberg, Managed Care Administrator, Department of Human Services, said the flexibility the federal legislation has given the state will not necessarily result in decreasing the level of patient care. He said critical access hospitals should result in increasing reimbursements to hospitals and allowing critical access hospitals to forego providing some unneeded services. He said a problem faced by rural hospitals is that individuals are not using the small hospitals and are going straight to the larger community hospitals. He said the use of the small rural hospitals is primarily for low-intensity emergencies such as pneumonia and not open heart surgery, and a critical access hospital would be ideal for this type of situation, thereby making care more readily accessible to individuals living in small communities.

Chairman Krebsbach called on Mr. Arnold Thomas, President, North Dakota Health Care Association, for comments regarding the impact of the federal critical access hospital legislation. Mr. Thomas said in North Dakota there are essentially two tier levels of care--rural and urban. He said the federal legislation is a big opportunity for North Dakota because the language is lacking in specificity; therefore, the professionals in the state will have to be active in creating a state plan. He said the federal legislation offers increased financial opportunities for rural hospitals, but the legislation does not override the standard of care patients receive. He said the federal legislation is intended to provide care to rural residents and not to take care of rural hospitals. He said two problems faced by rural hospitals are absorption by larger hospitals and inability to compete with larger urban hospitals. He said the federal legislation may impact emergency medical services, and the possible impact on the North Dakota trauma system is being evaluated.

In response to a question from Representative Drovdal, Mr. Thomas said 24-hour emergency hospitals must have physicians "reasonably accessible," which means the physician must be physically present in the hospital or on call.

In response to a question from Representative Gulleson, Mr. Gladden said one possible disadvantage critical access hospitals may have is the public's perception that the facility is less qualified to deal with emergency situations; however, this public perception may already exist with small rural hospitals.

In response to a question from Representative Callahan, Mr. Gladden said he is not sure whether the Department of Health has the necessary resources to implement this federal legislation. He said he anticipates a critical access hospital could exist in North Dakota within the next six months.

In response to a question from Representative Drovdal, Mr. Gladden said the remoteness issue rural hospitals have regarding "golden hours" is really only relevant to emergency room trauma cases, and rural hospitals only have a small number of these cases.

Chairman Krebsbach called on Mr. Solberg for comments regarding the status of the Medicaid managed care pilot project in Grand Forks. Mr. Solberg distributed written testimony, a copy of which is attached as Appendix C.

In response to a question from Representative Callahan, Mr. Solberg said the capitated rate per member per month varies depending on gender and age. A copy of this capitation schedule is on file in the Legislative Council office.

In response to a question from Representative Rose, Mr. Solberg said prevention and wellness services will include outreach education such as prenatal care and preventive services such as mammograms. He said there are some differences between the service needs of the medical

assistance population versus the service needs of the commercial consumer population.

In response to a question from Senator Krebsbach, Mr. Solberg said the cutoff date for allowing medical assistance recipients to choose between the primary care model and the health maintenance organization model is November 1, 1997. He said an unofficial tally indicates that approximately two-thirds of the recipients are choosing the health maintenance organization model, and one-third are choosing the primary care model.

Chairman Krebsbach called on Mr. Dan Howell, Chief Executive Officer, Sakakawea Medical Center, Hazen, for comments regarding managed care in rural communities. Mr. Howell provided written testimony, a copy of which is attached as Appendix D. Mr. Howell said his facility offers a managed care program called Sakakawea Select Health Care Network, which provides the largest percentage of care of managed enrollees in the state. He said he does not see any disadvantages of critical access hospitals. He said the services offered at the rural hospitals will continue, and critical access hospitals will offer stabilization and flexibility.

In response to a question from Representative Drovdal, Mr. Howell said health maintenance organizations are keeping health care costs down--the premiums paid by employers are decreasing under Blue Cross Blue Shield's Blue Choice plan.

In response to a question from Representative Callahan, Mr. Howell said the health maintenance organization premium for his program is $87 per month. He said the Blue Choice premiums are approximately $115 to $120 per month.

In response to a question from Representative Drovdal, Mr. Howell said he does not foresee the quality of care decreasing under critical access hospitals. He said medical facilities are in the business of providing health care and facilities will not offer health care if the quality of service is not adequate.

Chairman Krebsbach called on Mr. Jim K. Long, Chief Executive Officer, West River Regional Medical Center, Hettinger, for comments regarding the feasibility of managed care in rural communities. Mr. Long provided written testimony, a copy of which is attached as Appendix E. He said managed care is generally not appropriate in rural North Dakota. He said he supports the federal legislation regarding critical access hospitals, and each rural hospital is going to have to make its own decision of whether to change to a critical access hospital.

In response to a question from Representative Callahan, Mr. Long said the approximate differential between a premium payment and the provider payment is 30 percent. He said Hettinger used to have the West River Health Maintenance Organization, but that health maintenance organization got into trouble with Medicare at-risk contracts, and therefore no longer exists.

In response to a question from Representative Gulleson, Mr. Long said the method used to reimburse rural doctors differs from facility to facility. He said some rural doctors are paid a salary and other rural doctors enter contracts for a guaranteed salary for one or two years and then the payment is based upon a percentage of the professional services rendered. He said managed care encourages doctors to limit care. He said the reality is that doctors just want to provide the care their patients need.

Chairman Krebsbach called on Mr. Gibbens for comments as an interested person. Mr. Gibbens provided the committee with a document entitled *Rural Community Health Plans: A Descriptive Report and Directory*, a copy of which is on file in the Legislative Council office. He encouraged the committee members to use this article as a resource when studying managed care. He said critical access hospitals are closely related to managed care and the rural health care delivery system. He said critical access hospitals may help to stabilize the health care delivery system and a stable delivery system is required for successful implementation of managed care.

DISCUSSION AND DIRECTIVES

Representative Callahan requested that the committee receive information regarding the evolution of quality of care evaluation through all levels of care, including managed care.

Representatives Gulleson and Callahan requested information regarding the incentives for-profit managed care providers are given to invest in the community.

Representative Price requested that Mr. Gladden report back to the committee regarding the status of and any changes in federal legislation and critical access hospital plans.

Representative Carlisle requested that Mr. Solberg keep the committee up to date on the implementation of the Grand Forks Medicare health maintenance organization program.

Representative Drovdal requested that the Legislative Council staff be requested to invite testimony regarding how telemedicine is related to critical access hospitals.

Representative Callahan requested that Legislative Council staff be requested to review the

North Dakota Century Code to determine the nature of the Department of Health's authority to gather physician information.

PUBLIC HEALTH STUDY

Chairman Krebsbach called on Ms. Debra Anderson, Public Information Officer, Department of Health, to present to the committee a matrix that indicates the services provided by local public health departments in North Dakota. Ms. Anderson provided written testimony, a copy of the matrix of services provided by local public health departments in North Dakota, and an executive summary of the matrix. These materials are attached as Appendix F.

In response to a question from Representative Rose, Ms. Sandra Anseth, Director, Maternal and Child Health, Department of Health, said the level of service provided by each of the local public health departments varies from department to department. She said some services may be provided in a community by an agency other than the local public health department, and this is not reflected in the matrix.

In response to a question from Representative Callahan, Ms. Anderson said some of the local public health departments do have strategic plans.

EMERGENCY MEDICAL SERVICES STUDY

Chairman Krebsbach called on committee counsel to describe possible emergency medical services funding sources. Committee counsel provided a copy of a document entitled *Dedicated Funding Sources (Estimated)*, which was created by the 1987-88 Emergency Medical Services Funding Task Force and presented as part of written testimony during the 1989 legislative session. She also distributed a document entitled *Dedicated Funding Sources for State EMS Offices*, which was prepared by Mr. Larry Weber, Advanced Life Support Training Coordinator, Department of Health, in preparation for this committee meeting. Copies of the two documents are on file in the Legislative Council office. She said the 1987-88 interim Budget Committee on Institutional Services studied emergency medical services. She said the interim committee recommended House Bill No. 1040, which would have created a monthly surcharge on telephone lines. She said the telephone line funding mechanism in House Bill No. 1040 was deleted before the bill was enacted. She said additional funding mechanism considerations might include amending the mill levy statutes, imposing a surtax on health and accident insurance policies similar to the hail suppression surtax being proposed, or imposing some other tax such as a gas tax, luxury item tax, or "sin" tax.

Chairman Krebsbach called on Mr. Mark Haugen, Past President, North Dakota Emergency Medical Services Association, for comments regarding how emergency medical service providers are being funded within the state and suggestions for additional funding sources. Mr. Haugen distributed documents entitled *Federal, State, County, and District Subsidies for EMS Systems* and *Identified Funding Sources Based on November 1988 Budget Committee Report*, copies of which are on file in the Legislative Council office.

In response to a question from Representative Drovdal, Mr. Haugen said the oil impact grants are probably not included in the subsidies handout. He said he did not request information regarding oil impact grants.

In response to a question from Senator Krebsbach, Mr. Haugen said the source of the grant indicated in the subsidies handout is the state emergency medical services training grant. He said the most recent training grant biennium appropriation was $470,000.

In response to a question from Representative Carlisle, Mr. Haugen said the emergency medical services program is probably getting as much as it will from the general fund; therefore, other funding sources may need to be investigated.

Mr. Haugen said motor vehicle funds are probably not available based on an opinion by the Attorney General which states that motor vehicle funds are only available for highway safety and construction. He said specific areas in need of funding include both retention and training of emergency medical service providers, equipment funding, and the state trauma plan.

Mr. Haugen said there is a need to get the emergency medical services program off federal funding, because federal funding comes with obligation and baggage and when the federal money dries up the Emergency Medical Services Division is stuck in a position of trying to continue programs using state funds.

Mr. Haugen said one problem associated with implementing a telephone surtax is the expense related to administering and collecting the tax.

Mr. Dale Severson, Past President, Emergency Medical Services Association, said 1989 House Bill No. 1040 initially requested a surtax of 25 cents per line and upon learning that there is approximately seven cents per line in administrative costs, the surtax request was increased to 50 cents per line.

Mr. Haugen distributed a document entitled *Federal Health Care Finance Administration (FHCA) Proposed Regulations Affecting EMS*, a copy of which is on file in the Legislative Council office. He said the 1997 Balanced Budget Act Medicare reimbursement provisions make it very difficult for emergency medical services to be reimbursed.

Chairman Krebsbach called on Mr. Derek Hanson, President, North Dakota Emergency Medical Services Association, for comments regarding the results of a recent survey of North Dakota emergency medical service providers. Mr. Hanson distributed the survey results, a copy of which is attached as Appendix G. He said there was a 50 percent response to the survey.

In response to a question from Representative Drovdal, Mr. Hanson said his data does not indicate whether fire department-based emergency medical service providers burn out faster or slower than emergency medical service providers based with ambulance services. He said fire department-based services have been very successful. He said he does not have data showing how many emergency medical service providers are actually reimbursed when pulled out on a call.

In response to a question from Representative Callahan, Mr. Hanson said telemedicine emergency medical service training is beginning to be implemented in this state.

In response to a question from Representative Drovdal, Mr. Hanson said quick response units cannot transport, are usually basic life support trained, stabilize patients until ambulances arrive, and are well-suited for very small communities; whereas, basic life support systems are usually provided by ambulance units.

Mr. Hanson showed the committee a clip of a Department of Health emergency medical services training tape, in which Dr. Jon Rice, former State Health Officer, Department of Health, addressed the need for retention of emergency medical service providers and the importance of emergency medical services as an entry into the health care system and as a safety net.

Chairman Krebsbach called on Mr. Thomas for comments regarding the relationship between health care providers and emergency medical service providers. Mr. Thomas said emergency medical services are integral to the implementation of critical access hospitals. He said the 46 hospitals in North Dakota are unable to provide, by themselves, emergency medical services to the entire state.

Mr. Thomas said issues that emergency medical service providers are facing include problems with manpower, communication, transportation, and equipment. Although private business owners and hospital response systems provide some emergency medical services, he said, the volunteer emergency medical service providers are the backbone of the system in rural North Dakota. He said he supports a statewide 911 system because it would result in less duplication. He said critical access hospitals may be helpful in providing the capital necessary for transportation and equipment.

In response to a question from Representative Gulleson, Mr. Thomas said how an emergency medical services provider is rated or qualified depends on the equipment available and the training of the manpower.

In response to a question from Senator Krebsbach, Mr. Thomas said he is not sure how much money would be needed to implement a statewide emergency medical services system; however, training is integral and the statewide trauma system is also integral.

Mr. Haugen said the current appropriation for emergency medical service education is not meeting the educational needs within the state.

Chairman Krebsbach called on Mr. Larry Weber for comments regarding the reimbursability of emergency medical services, emergency medical services ownership across the state, objections the Department of Health has to recent federal legislation, and the anticipated costs to the department related to the implementation of the 1997 five-year emergency medical services plan. Mr. Weber distributed written testimony, a copy of which is attached as Appendix H.

Mr. Weber said the initial one-year cost to the department to initiate the state plan would be approximately $749,000 plus the costs associated with developing a separate channel on the State Radio system dedicated to emergency medical communications.

In response to a question from Representative Drovdal, Mr. Weber said he is not certain which two North Dakota counties do not have a 911 system in place.

In response to a question from Representative Callahan, Mr. Weber said the emergency medical services system in the state is a free enterprise system.

In response to a question from Representative Carlisle, Mr. Weber said he is not certain how much of the initial startup costs would be requested in the department's budget from the general fund. He said he is not involved in the budget building process and a different representative from the department would be better suited

to answer questions regarding fiscal budgeting issues.

COMMITTEE DISCUSSION AND DIRECTIVES

Representative Drovdal requested that the Legislative Council staff be requested to obtain information regarding the emergency medical services funding sources of each of the other states; whether revenues obtained from speeding violations were available; and why emergency medical service vehicle expenses are not being depreciated by ambulance services.

Representative Price requested that the Legislative Council staff be requested to obtain 1997 funding data and information regarding how emergency medical services spends the $1,043,169 appropriated last session.

Senator Krebsbach requested that the Legislative Council staff be requested to provide information regarding how the general fund appropriation of $314,590 is used within the department.

Chairman Krebsbach said the tentative date for the next meeting of the committee is December 10, 1997, and the committee is tentatively scheduled to meet on Thursday, April 16, 1998, to study hail suppression.

Chairman Krebsbach adjourned the meeting at 4:30 p.m.

Jennifer S. N. Clark
Counsel

ATTACH:8