NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON HEALTH CARE

Tuesday, February 12, 2002
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Judy Lee, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Judy Lee, Gary A. Lee, Michael Polovitz, Ken Solberg, Russell T. Thane; Representatives Audrey B. Cleary, William R. Devlin, David Drovdal, Jim Kasper, George Keiser, Kenton Onstad, Chet Pollert, Todd Porter, Clara Sue Price, Robin Weisz

Members absent: Senator Dennis Bercier; Representatives Rick Berg, Carol A. Niemeier

Others present: See attached appendix

It was moved by Representative Keiser, seconded by Representative Cleary, and carried on a voice vote that the minutes of the October 23-24, 2001, meeting of the Budget Committee on Health Care be approved as distributed.

COMMENTS BY STATE HEALTH OFFICER

Chairman J. Lee welcomed Dr. Terry Dwelle, State Health Officer, State Department of Health, who provided comments regarding his goals for the department and health policy in North Dakota. Dr. Dwelle said the State Department of Health must empower communities to change high-risk behavior. He said his goals for the department include reorganizing the department to increase efficiency and effectiveness, developing a strategic plan, and increasing the department's networking with other health organizations and institutions. He said North Dakota will receive $6.9 million of bioterrorism federal funds and the state must develop a plan by April 15, 2002, for the use of the funds. He said North Dakota plans to establish a "Healthy North Dakota" wellness program by September 2002.

In response to a question from Representative Keiser, Dr. Dwelle said his goal of increasing the department's networking with other health organizations includes the coordination of health care services with public and private sector health care providers.

Representative Price said public health services are not provided equitably in all areas of the state. She asked how the State Department of Health can address this disparity. Dr. Dwelle said it is the role of the State Department of Health to provide support to community public health programs and the department's support may eliminate gaps in public health services.

Dr. Dwelle said the department is near completion of a designated e-mail system that will be the first in the nation and will enhance communication among health care entities.

MANDATED HEALTH INSURANCE COVERAGE STUDY

Chairman J. Lee called on Mr. Jim Poolman, Insurance Commissioner, who presented testimony relating to insurance companies that have ceased doing business in North Dakota and the evaluation of health insurance mandates pursuant to 2001 House Bill No. 1407. A copy of his testimony is on file in the Legislative Council office. Commissioner Poolman said the following health insurance companies have ceased doing business in North Dakota during the past 12 months:

1. Conseco Medical Insurance Company, including the following subsidiary companies:
   a. Pioneer Life Insurance Company of Illinois.
   b. National Casualty Company.
   c. Washington National Insurance Company.
2. Sentry Select Insurance Company.
3. American Republic Insurance Company.
4. Trustmark Insurance Company.

Commissioner Poolman said although the Insurance Department does not require an insurance company to give a reason for discontinuing business in North Dakota, there may be various reasons, including:

- Rising health care and prescription costs.
- The company's inability to develop a provider agreement with major health care providers.
- The state's small population.

Commissioner Poolman said that pursuant to 2001 House Bill No. 1407, the Insurance Department has contracted with Milliman USA, Consultants and Actuaries, Minneapolis, Minnesota, to conduct a cost-benefit study of existing health insurance mandates at a cost not to exceed $200,000. A copy of the contract was distributed to committee members and is on file in the Legislative Council office. He said the focus of the study will be the impact of mandates on the

commercial insurance market, not Medicare or Medicaid populations. He said pursuant to the committee's request, the cost-benefit analysis will include:

1. A report on the impact of premium levels on the insured.
2. An assessment of North Dakota's small employer basic and catastrophic health plans.
3. Recommended procedures for reviewing proposed mandates.

Commissioner Poolman said the study would not include a survey of self-funded employers as they are not subject to the mandates, the department has statistics on these funds, and the survey would cost an additional $50,000. House Bill No. 1407 also directs this committee to recommend to the Legislative Council a private entity to be contracted with for conducting cost-benefit analyses of future legislative measures which mandate health insurance coverage. Commissioner Poolman said the Insurance Department recommends that the Legislative Council contract with Milliman USA to conduct future cost-benefit analyses of legislative measures mandating health insurance coverage. He said initial estimates by Milliman USA indicate that each cost-benefit analysis could be completed within two to three weeks at an estimated cost of $5,000 to $15,000 per analysis.

It was moved by Senator Thane, seconded by Representative Devlin, and carried on a roll call vote that the committee accept the Insurance Commissioner's recommendation regarding the entity to be contracted with by the Legislative Council for cost-benefit analyses of future legislative measures and request that a representative of Milliman USA present information at the committee's next meeting on items to be included in the cost-benefit analyses and the estimated cost of the analyses. Senators J. Lee, G. Lee, Polovitz, Solberg, and Thane and Representatives Cleary, Devlin, Drovdal, Keiser, Onstad, Pollert, Porter, Price, and Weisz voted "aye." No negative votes were cast.

Chairman J. Lee called on Mr. Rod St. Aubyn, Director, Government Relations, Blue Cross Blue Shield of North Dakota, who presented information on the cost of existing health insurance mandates and the utilization of mandated health insurance services. A copy of the information presented is on file in the Legislative Council office. Mr. St. Aubyn said Blue Cross Blue Shield of North Dakota opposes mandates for several reasons, including:

- Mandates increase costs to members.
- Mandates reduce flexibility in designing and marketing policies.
- Mandates make it difficult to change benefits to reflect changes in acceptable medical procedures.

Mr. St. Aubyn said during the period August 1, 2000, through July 31, 2001, claims incurred by Blue Cross Blue Shield of North Dakota for mandated benefits and providers totaled $111.7 million. He said claims for mandated benefits and providers account for between 18.5 percent and 20.5 percent of the total claims.

Representative Cleary said the information presented by Mr. St. Aubyn relates only to the costs of mandated benefits and services and does not quantify the value of increased quality of life or the cost-savings that result from early detection and treatment of diseases.

Senator Thane said it would be difficult to convince the public that mandates for certain health insurance benefits should be eliminated. Mr. St. Aubyn said that eliminating a mandate in state law does not mean the benefit would be eliminated from insurance plans offered by Blue Cross Blue Shield of North Dakota. He said Blue Cross Blue Shield of North Dakota would continue offering benefits demanded by the public.

Chairman J. Lee called on Ms. Rose Stoller, Executive Director, Mental Health Association in North Dakota, who said the Mental Health Association in North Dakota supports the elimination of mandates for mental health coverage if mental health parity is guaranteed.

COORDINATION OF MEDICAID AND HEALTHY STEPS PROGRAMS STUDY

Chairman J. Lee called on Mr. David Zentner, Director, Medical Services, Department of Human Services, who presented information relating to the estimated cost of changing Healthy Steps program eligibility requirements. A copy of the information presented is on file in the Legislative Council office. Mr. Zentner said under current law, children may be eligible for the Healthy Steps program if their family **net income** does not exceed 140 percent of the federal poverty level and they are not eligible for Medicaid. He presented cost estimates for increasing the income eligibility limit for the Healthy Steps program to various levels up to 200 percent of the federal poverty level, **based on gross, rather than net, income** as follows:

Gross Income Eligibility Level as a Percentage of the Federal Poverty Level	**Estimated 2003-05 Biennium General Fund Cost**	**Estimated 2003-05 Biennium Federal Fund Cost**	**Estimated 2003-05 Biennium Total Cost**
165%	$19,246	$67,643	$86,889
175%	$178,596	$627,707	$806,303
185%	$320,723	$1,127,236	$1,447,959
200%	$679,253	$2,387,351	$3,066,604

In response to a question from Senator Solberg, Mr. Zentner said the estimated costs are based on an anticipated increase in Blue Cross Blue Shield of North Dakota premiums and a decrease in the federal matching percentage. He said the premium rate used was $147.27 per month.

Mr. Zentner also distributed a copy of the department's *At a Glance* publication which provides a monthly review of economic assistance program data. He said the department's *At a Glance* publication is mailed in hard copy to legislators and is also available for distribution via e-mail.

Chairman J. Lee called on Mr. Zentner who presented information on the status of Medicaid plan amendments to eliminate the asset test for Medicaid eligibility and the development of a combined application form for Medicaid and Healthy Steps. A copy of his testimony and a draft of the joint application form is on file in the Legislative Council office. He said it was necessary for the department to submit two separate state plan amendments. The state children's health insurance program (CHIP) amendment will allow the state to continue to claim the enhanced CHIP matching rate for qualifying children who are transferred from the Healthy Steps program to the Medicaid program. He said the CHIP amendment was submitted on November 18, 2001, with an effective date of January 1, 2002. He said the state Medicaid plan amendment will eliminate the asset test for children and family eligibility groups. He said the Medicaid amendment was submitted on January 18, 2002, with an effective date of January 1, 2002.

Chairman J. Lee called on Mr. John Graham, Job Service North Dakota, who presented testimony relating to unemployment trends and projections in North Dakota. A copy of his testimony is on file in the Legislative Council office. Mr. Graham said Job Service North Dakota does not make projections concerning unemployment rates, but such projections are available from national sources. He presented information from *Economy.com* indicating that the unemployment rate in North Dakota is projected to increase from 2.5 percent in 2001 to 3.3 percent in 2002, 3.1 percent in 2003, 3 percent in 2004, and 3 percent in 2005. He said Job Service North Dakota is currently conducting an employer survey which will provide information on employer-sponsored health insurance coverage in North Dakota. He said the survey results are not final, but preliminary data indicate 86.3 percent of employers offer health insurance coverage to their employees. He said a survey completed in May 2001 shows that 73.5 percent of full-time employees and 22.1 percent of part-time employees have health plan coverage.

Senator J. Lee asked if the survey data will show whether the health insurance coverage offered by employers is family or individual coverage. Representative Keiser asked if the data will show trends in copayments, deductibles, and other costs borne by employees. Mr. Graham said the survey may not include such detailed information relating to health insurance plans, but said he would provide that information to the committee if it is available.

Chairman J. Lee called on Mr. Tim Cox, President, Northland Healthcare Alliance, who presented testimony relating to a federal community access program grant received by the Northland Healthcare Alliance to support the coordination of services for underinsured and uninsured North Dakotans. A copy of the information distributed to the committee is on file in the Legislative Council office. Mr. Cox said the Northland Healthcare Alliance is a private, nonprofit regional network of health care providers in western and central North Dakota. He said in September 2001 Northland Healthcare Alliance received notice from the Health Resources and Services Administration that its community access program proposal was funded in the amount of $908,000. He said through the community access program grant program, Northland Healthcare Alliance has placed community resource coordinators in 15 communities throughout western and central North Dakota to work with local facilities and existing state and county agencies to help people access health care more easily for themselves and their families. He said Northland Healthcare Alliance is also coordinating the development of a shared information system to eliminate duplication in demographic information collected by providers and governmental agencies.

Senator Solberg asked if the services provided by Northland Healthcare Alliance duplicate services provided by other entities in North Dakota. Mr. Cox said Northland Healthcare Alliance works in cooperation with other entities and agencies to ensure that their services are not a duplication of other services being provided.

Chairman J. Lee requested Mr. Cox to provide a copy of his written testimony to be distributed to committee members.

Chairman J. Lee called on Mr. David Peske, Director, Governmental Relations, North Dakota Medical Association, who presented testimony relating to uncompensated care provided by North Dakota health care providers. A copy of his testimony is on file in the Legislative Council office. Mr. Peske said pursuant to the American Medical Association (AMA) Code of Medical Ethics, physicians commonly forgive or waive copayments to facilitate patient access to needed medical care. He said, however, insurer policy restrictions may limit the physician's ability to make such accommodations. He said the North Dakota Medical Association is a voluntary membership association for physicians, residents, medical students, and their spouses and has no authority or established mechanisms to collect financial data from its members or their practices. He said, however, the North Dakota Healthcare Association has information relating to uncompensated care provided by North Dakota hospitals.

Chairman J. Lee called on Mr. Arnold Thomas, President, North Dakota Healthcare Association, who presented information relating to hospital services and revenue. A copy of the information presented is on file in the Legislative Council office. The information shows that while hospital admissions have remained fairly constant from 1996 to 2000, emergency room

outpatient visits have increased by approximately 10 percent. He said while hospital total gross revenue has increased approximately 42 percent from 1996 to 2000, allowances, bad debts, and charity care has increased 112 percent during that time period.

Chairman J. Lee called on the Legislative Council staff to present memorandums relating to the committee's study of the coordination of the Medicaid and Healthy Steps programs. The Legislative Council staff said a publication entitled *Making It Simple: Medicaid for Children and CHIP Income Eligibility Guidelines and Enrollment Procedures*, which includes a summary of each state's Medicaid and CHIP income eligibility guidelines, is on file in the Legislative Council office and available to committee members upon request.

The Legislative Council staff presented a memorandum entitled *Health Insurance Programs for Children - Income Eligibility Requirements*. The memorandum states that North Dakota children not covered by private health insurance may be eligible for medical coverage through one of the following programs:

- Medicaid, which provides coverage for various groups, including children through age 18 with net family income up to 100 percent of the federal poverty level. As of November 2001, 20,829 North Dakota children were enrolled in the Medicaid program.
- Healthy Steps, which provides coverage for children through age 18 who are not eligible for Medicaid and who have net family income up to 140 percent of the federal poverty level. As of November 2001, 2,615 North Dakota children were enrolled in the Healthy Steps program.
- Caring Program, which provides primary and preventive health care for uninsured children through age 18 with gross family income from 141 to 200 percent of the federal poverty level. As of November 2001, 539 children were enrolled in the Caring Program.

The Legislative Council staff presented a memorandum entitled *Percentage of Uninsured Children Eligible for the Children's Health Insurance Program*. The memorandum summarizes information from an American Academy of Pediatrics report entitled *Children's Health Insurance Advocacy Fact Sheets - 2000*. The report shows for each state the estimated percentage of uninsured children eligible for CHIP and the percentage of uninsured children eligible for the Medicaid program. The information is based on a national survey with limited sampling in small population states that may impact the state percentages. The report estimates that nationwide 20 percent of uninsured children are eligible for CHIP and 52 percent are eligible for the Medicaid program. The report also estimates that in North Dakota, 14 percent of uninsured children are eligible for CHIP and 59 percent are eligible for Medicaid.

The Legislative Council staff presented a memorandum entitled *Estimating the Number of Uninsured Children*. The memorandum summarizes methods used in several Midwestern states to estimate the number of uninsured children. Most states do not have a state-specific survey, such as the Robert Wood Johnson Foundation family survey conducted in 1998 by the North Dakota State Department of Health, to provide information relating to the number of uninsured children. Consequently, most states use data from the Census Bureau's current population survey. Although the current population survey includes 65,000 households, the small sample size for certain low-population states, such as North Dakota, means certain population groups or counties may not be represented. The current population survey data indicate that nationally 37.1 percent of the children under age 19 have family incomes at or below 200 percent of the federal poverty level and 7.3 percent of the children under age 19 have no health insurance. The current population survey also indicates that in North Dakota 37.6 percent of children under age 19 have family incomes at or below 200 percent of the federal poverty level and 8.4 percent of children under age 19 do not have health insurance.

The committee recessed for lunch from 12:10 p.m. to 1:05 p.m.

Chairman J. Lee called on Ms. Kathy Hogan, President, North Dakota County Social Service Directors Association, who provided testimony regarding county administration of the Healthy Steps program. A copy of her testimony is on file in the Legislative Council office. Ms. Hogan said because county social service agencies already deal with many low-income families, it is logical and appropriate for the Healthy Steps program to be administered at the county level. She said by incorporating the Healthy Steps program into the range of other low-income benefit programs administered at the county level, children are more likely to be enrolled in a health care program. She said counties may be willing to contribute to the required local administrative funding match if they are allowed to access the federal administrative reimbursement for the Healthy Steps program. She said if the Legislative Assembly decides counties should administer the Healthy Steps program, a 12-month transition plan should be implemented. She said counties could be reimbursed either through a flat rate or the CHIP program could be integrated into the current reimbursement structure called the random moment time study.

In response to a question from Representative Weisz, Ms. Hogan said due to a lack of experience with the program, the County Social Service Directors Association is unable to develop a specific cost estimate for county administration of the Healthy Steps program.

Chairman J. Lee called on Mr. Zentner who presented testimony relating to county administration

of the Healthy Steps program. A copy of his testimony is on file in the Legislative Council office. He said the department decided to administer the Healthy Steps program for two primary reasons:

- The department wanted to limit administrative costs. Pursuant to federal regulations, administrative costs for the Healthy Steps program cannot exceed 10 percent of program costs. Counties did not provide specific information to the department regarding anticipated costs for determining eligibility. Because the cost of eligibility determination was not quantified, the department was concerned that adequate funding would not be available for outreach activity necessary to launch the new program.
- The department wanted to determine if a separate, state-operated eligibility determination process would meet the needs of working families and maintain client anonymity.

Mr. Zentner said the Department of Human Services implemented the program without any additional staff and has operated the program for almost two and one-half years. He said the cost of determining program eligibility is approximately $89,000 for the 2001-03 biennium. He said the department has concluded that administration of the Healthy Steps program at the state level has been successful, but the current system is not without its problems. He said because of the lack of staff, the department is unable to act on renewals as quickly as it would like. He said as a result some families have not received timely notice of changes in eligibility status. He said if one entity determined eligibility for both the Medicaid and Healthy Steps programs, it may eliminate some problems related to the transfer of information between the two programs.

In response to a question from Senator Solberg, Mr. Zentner said the department spends less than 10 percent of program costs on administration and outreach. He said, however, the $89,000 amount referred to in his testimony is only the amount spent for determining eligibility, not conducting other administrative functions, including outreach activities.

PRESCRIPTION DRUG PRICES STUDY

Chairman J. Lee called on Mr. St. Aubyn who presented information on payments made by Blue Cross Blue Shield of North Dakota for common outpatient procedures. A copy of the information presented is on file in the Legislative Council office. He said since 1996 pharmaceutical costs have increased at a much higher rate than costs for outpatient and inpatient services. He said increased pharmaceutical costs have contributed to premium increases.

Senator J. Lee said it is possible that increases in charges for inpatient and outpatient services would have been larger without increased spending on prescription drugs.

In response to a question from Senator Polovitz, Mr. St. Aubyn said to the extent possible, he will provide information to the committee regarding various factors which have contributed to increased health insurance premiums, such as prescription drug charges, hospital costs, etc.

Chairman J. Lee called on Mr. Zentner who presented information on the utilization of major drugs covered by the state Medicaid program. A copy of his testimony is on file in the Legislative Council office. He said drug costs continue to exceed budgeted amounts. He said for the month of January 2002, the department spent $4.3 million ($1.3 million from the general fund) for the Medicaid drug program compared to estimated expenditures of $3.4 million ($1 million from the general fund). He said if this rate of expenditure continues, the Medicaid drug program will spend $6.3 million ($2.4 million from the general fund) more than the amount appropriated for the 2001-03 biennium.

In response to a question from Representative Devlin, Mr. Zentner said Medicaid hospital costs have also increased. He said charges for both inpatient and outpatient Medicaid procedures are anticipated to exceed appropriated amounts for the 2001-03 biennium.

Chairman J. Lee called on Mr. Peske who commented on the status of the Drug Utilization Review Board. He said the membership of the Drug Utilization Review Board has been reconstituted and now includes three physicians. He said one more physician is being sought to serve on the board. He said the board also consists of five pharmacists. He said the board has become more focused on educating physicians and the public, a role supported by the North Dakota Medical Association.

Chairman J. Lee called on Dr. Brendan Joyce, Administrator of Pharmacy Services, Department of Human Services, who presented testimony regarding the Drug Utilization Review Board. A copy of his testimony is on file in the Legislative Council office. Dr. Joyce said the state is required by federal law to maintain a Drug Utilization Review Board. He said the board meets quarterly to provide recommendations to the Department of Human Services regarding pharmacy services. He said a large part of the board's discussion has revolved around cost containment measures. He said the board has advised the department to screen drug claims to ensure that medications are being used within medical guidelines. He said the board's suggestions will be implemented as part of the department's prospective drug utilization review program. He said the Drug Utilization Review Board also identified a test class of medications to be used for physician education activities in an attempt to direct usage to the most cost-effective medication.

Representative Onstad asked if the Drug Utilization Review Board has made recommendations regarding whether Medicaid recipients receive brand

name or generic drugs. Dr. Joyce said a patient's physician is ultimately responsible for the product prescribed, whether it be a brand name drug or a generic drug.

Chairman J. Lee called on Mr. Galen Jordre, Executive Vice President, North Dakota Pharmaceutical Association, who presented testimony relating to the Drug Utilization Review Board. A copy of his testimony is on file in the Legislative Council office. Mr. Jordre said the North Dakota Pharmaceutical Association has been supportive of activities of the Drug Utilization Review Board and pharmacists have been active participants on the board. He said the association supports a strong and active Drug Utilization Review Board.

Chairman J. Lee called on Mr. Mark Biel, pharmacist and Drug Utilization Review Board member, who provided testimony relating to the Drug Utilization Review Board. A copy of his testimony is on file in the Legislative Council office. Mr. Biel said his biggest concern as a Drug Utilization Review Board member is that most cost control methods which can be recommended by the board are retroactive in nature. He said many private insurance companies require the use of a formulary to provide coverage for the most cost-effective drug. He said this approach should be considered for the North Dakota Medicaid program. He said therapeutic interchange should also be considered as a cost containment tool for the Medicaid drug program. He said therapeutic interchange provides that if a physician prescribes a certain drug, but a more cost-effective drug will treat the same condition, the more cost-effective drug is substituted. He said unless the Drug Utilization Review Board is allowed to use more proactive measures, cost containment will continue to be very difficult, with most actions of the board having a minimal impact.

In response to a question from Senator J. Lee, Mr. Biel said if a generic version of a prescribed brand name drug is available, the pharmacist may mention to the patient the availability of the generic version. If the patient approves the substitution, the generic alternative is used.

In response to a question from Representative Kasper, Mr. Biel said most physicians are not as familiar with the cost of prescription drugs as are pharmacists who must collect for those prescriptions at the point of sale.

Chairman J. Lee called on Ms. Sheila Peterson, Director, Fiscal Management Division, Office of Management and Budget, who introduced Mr. Bob Nakagawa, Director of Pharmacy, Fraser Health Authority, British Columbia, Canada. Mr. Nakagawa presented testimony on pharmaceutical benefit management in Canada, including strategies that have been employed to ensure cost-effective utilization of public funds. A copy of his testimony is on file in the Legislative Council office. He discussed the British Columbia Pharmacare drug insurance program established in 1974. He said the Pharmacare program assists four million British Columbia residents in paying for eligible prescription drugs and designated medical supplies and incurs annual drug expenses of over $600 million. He said British Columbia successfully implemented cost control measures in 1994 to curb growth in Pharmacare expenses. He said pharmaceutical cost containment measures which could be implemented in North Dakota include:

- A new drug review process, which utilizes independent evidence-based analysis to guide decisions on the costs and effectiveness of new drugs.
- A low-cost alternative drug program, which limits coverage to the cost of the lowest-priced alternative drug with the same therapeutic benefits. He said patients may choose to pay the difference for a higher-cost drug. He said such a program saves the Pharmacare program approximately $20 million annually.
- A limited-use drug program, which provides for appropriate drug use by approving a particular drug for first-line treatment of a disease. If a patient's condition is not successfully treated with a first-line agent, second-, third-, or fourth-line agents may be used.
- A reference drug program, which provides for a class of drugs to be used to treat a particular condition. He said such a program encourages the use of less expensive drugs by providing that only the most therapeutically effective and cost-effective drugs are covered. He said such a program provides that drugs above the reference price will be funded only for patient-specific reasons.

Mr. Nakagawa said although drugs are an essential element of current medical therapy, drug expenses are increasing disproportionate to their value. He said government-funded health programs have fiscal limits and it is necessary to implement drug cost control policies to limit the growth of program expenses.

Senator J. Lee asked for Mr. Nakagawa's comments regarding the North Dakota Drug Utilization Review Board. He said the efforts of the Drug Utilization Review Board should be supported; however, the educational interventions which may be implemented by the board may be limited in effectiveness.

Representative Devlin said his concern with some drug cost control programs is that they involve placing a government bureaucrat between the physician and the patient. Mr. Nakagawa said drug cost control programs do not necessarily interfere with the patient/physician relationship but deal with the realities of limited public funding.

Chairman J. Lee called on Ms. Kelly Marshall, Pharmacia Corporation, Omaha, Nebraska, who testified in support of pharmaceutical manufacturers.

Ms. Marshall said pharmaceutical manufacturers spend nearly 20 percent of every dollar of revenue for research and development. She said drug manufacturers must spend millions of dollars in research and development and clinical trials before a drug can be brought to market. She said once brought to market, a drug's profitability is limited due to a short patent life and competition from other drugs. She defended the industry's use of direct-to-consumer advertising and said that such advertising leads to more educated consumers. She said direct-to-consumer advertising allows patients to be informed of their choices but does not lead to the patient demanding medications over the recommendation of their physician as some have claimed. She said quality of life issues need to be considered when examining drug cost control measures, which may limit the availability of the most appropriate drug for a particular patient. She said reference-based pricing programs should be opposed because they involve grouping all similar drugs into one class even though all drugs in a particular class are not the same.

In response to a question from Representative Devlin, Ms. Marshall said the pharmaceutical industry will provide input to the Drug Utilization Review Board. Representative Devlin said it is the intention of the Legislative Assembly that the Drug Utilization Review Board receive input from all parties involved in the pharmaceutical industry.

Chairman J. Lee called on the Legislative Council staff to present memorandums relating to the committee's study of prescription drug prices. The Legislative Council staff presented a memorandum entitled *Average Medicare and Medicaid Expenditures in North Dakota and Surrounding States*. The memorandum shows average Medicaid expenditures for the 20 most common diagnostic-related groups in North Dakota, Minnesota, South Dakota, and Montana. The memorandum also shows the average Medicaid expenditures for the 10 most common diagnostic-related groups in those four states.

The Legislative Council staff presented a memorandum entitled *Age 65 and Older Population in North Dakota - Changes and Projections*. The memorandum shows that from 1991 to 2015, the North Dakota population is anticipated to increase by 2.35 percent. However, during that time period, older demographic groups are anticipated to increase at a much higher rate.

The Legislative Council staff presented a memorandum entitled *State Pharmaceutical Assistance Programs*. The memorandum summarizes the types of pharmaceutical assistance programs implemented by states. Pharmaceutical assistance programs can be grouped into the following categories:

- Price reduction programs, which involve the state setting a limit on the prices charged for prescription drugs purchased by the state or by a segment of the population.
- Purchasing cooperatives, which involve an interstate consortium of several states or an intrastate cooperative of state agencies or programs that consolidate pharmaceutical purchasing functions in order to obtain discounted prices and achieve administrative efficiencies.
- Purchasing assistance programs, which provide direct assistance to consumers for the purchase of prescription drugs.
- Insurance programs, which involve either a state-established program to provide insurance benefits for the purchase of prescription drugs or premium assistance to subsidize the cost of private prescription drug coverage.
- Section 1115 waiver programs, which require a Section 1115 demonstration waiver approved by the Centers for Medicare and Medicaid Services to allow a state to expand Medicaid services or eligibility levels and receive federal matching funds.
- Tax credit programs, which have the net effect of reducing prescription drug costs through a state income tax credit for residents with high prescription drug costs.

COORDINATION OF BENEFITS FOR CHILDREN WITH SPECIAL NEEDS

Chairman J. Lee called on Mr. St. Aubyn who presented testimony relating to the progress of the Blue Cross Blue Shield of North Dakota task force on augmentative communication devices. A copy of his testimony is on file in the Legislative Council office. He said since the committee's last meeting, the task force has met three times via teleconference and explored various issues relating to benefits for augmentative communication devices. He said the task force's business may be completed by the next meeting of this committee. He said he will report to the committee if there is a need for legislation to be introduced to address problems identified by the task force.

Chairman J. Lee announced that the committee's next meeting is tentatively scheduled for April 30, 2002.

The meeting was adjourned subject to the call of the chair at 5:20 p.m.

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Joe R. Morrissette
Senior Fiscal Analyst

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Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1