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## HUMAN SERVICES COMMITTEE

Thursday, June 30, 2022  
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, Howard C. Anderson, Jr., JoNell A. Bakke, Kathy Hogan, David Hogue; Representatives Gretchen Dobervich, Clayton Fegley, Dwight Kiefert, Alisa Mitskog, Karen M. Rohr, Matthew Ruby, Mark Sanford\*, Mary Schneider, Randy A. Schobinger, Kathy Skroch, Greg Westlind

**Members absent:** Senator Jason G. Heitkamp; Representative Michelle Strinden

**Others present:** See [Appendix A](#)

*\*Attended remotely*

**It was moved by Representative Ruby, seconded by Representative Schneider, and carried on a voice vote that the minutes of the April 27, 2022, meeting be approved as distributed.**

### BEHAVIORAL HEALTH UPDATE

Ms. Pamela Sagness, Behavioral Health Division Director, Department of Human Services, provided an update ([Appendix B](#)) regarding behavioral health issues. She noted:

- Over 20 treatment programs are providing services through the substance use disorder voucher program and over 5,000 individuals have been served through the program.
- The Department of Human Services (DHS) is establishing a mental health program registry as required by Senate Bill No. 2161 (2021).
- Over 4,000 individuals have received services through the free through recovery program.

### EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT PROGRAM

Ms. Krista Fremming, Assistant Director, Medical Services Division, Department of Human Services, noted Section 59 of House Bill No. 1012 (2021) requires DHS to study the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program and to provide a report regarding recommended changes to the program. She reported DHS obtained consulting services to review the program and provide recommendations for changes.

Dr. Ken Robin, Chief Data Analyst, and Ms. Juliette Price, Chief Solutions Officer, Helgerson Solutions Group, presented a report ([Appendix C](#)) regarding the EPSDT program. They provided the following recommendations as a result of their study:

- EPSDT-related services should be referred to as a "benefit" rather than a "program" to help patients and families best understand the benefits they are entitled to.
- The state needs to understand the limits of the amount and types of information reported in the Centers for Medicare and Medicaid Services Form 416. The state should engage stakeholders to develop specific program measurement tools that aren't reported federally.

### STATE DEPARTMENT OF HEALTH LABORATORY

The committee traveled to the State Department of Health Laboratory for a presentation and tour.

Dr. Nizar Wehbi, State Health Officer, State Department of Health, provided a presentation ([Appendix D](#)) regarding the State Department of Health Laboratory. He noted:

- The building housing the laboratory is in poor condition.
- Options are being reviewed to remodel the existing facility or construct a new facility.
- Discussions are being held regarding the ability to incorporate the Department of Environmental Quality laboratory into a new or remodeled facility.

**MEDICAID EXPANSION PROVIDER REIMBURSEMENT RATES**

Ms. Fremming presented a report ([Appendix E](#)) pursuant to North Dakota Century Code Section 50-24.1-37 regarding provider reimbursement rates under the Medicaid Expansion program. She presented the following schedule detailing the percentage for each service that Medicaid Expansion rates were above traditional Medicaid rates in 2018 and 2019:

Service	2018	2019
Inpatient	158.80%	151.72%
Outpatient	204.07%	204.20%
Professional	167.54%	165.39%
Overall	173.90%	170.27%

**STUDY OF DEVELOPMENTAL DISABILITIES SERVICES AND AUTISM SPECTRUM DISORDER PROGRAMS**

Ms. Jillian Salmon, Senior Consultant, Ms. Wanda Seiler, Managing Director, and Ms. Erin Leveton, Director of Health and Human Services, Alvarez and Marsal Holdings, LLC presented a final report ([Appendix F](#)) regarding their study of developmental disabilities services and autism spectrum disorder programs. They noted the study included:

- Interviews with state staff and stakeholders.
- Reviews of statutes, regulations, waivers, policies, and process flows.
- Reviews of services provided.

The report noted the state uses the following Medicaid waivers to provide home- and community-based services to individuals with a disability:

Waiver	Target Population	Eligible Ages
Intellectual/Developmental Disability	Individuals with an intellectual or developmental disability	All ages
Autism spectrum disorder (ASD)	Children with autism	0-15
Medically fragile	Children who require medications, treatments, and other specialized care due to illness or cognitive disorders	3-17
Children's hospice	Children in need of palliative care	0-21
1915(i)	People with listed behavioral health conditions	All ages

The report noted the following items regarding the current status of providing developmental disabilities services:

- The state is currently providing a wide array of services to children under 3 in a cost-effective manner.
- The level of care provided to children decreases after age 3.
- There are waiting lists to receive services under the ASD waiver and medically fragile waiver.

The report recommends making the following adjustments to selected waiver programs:

Waiver	Proposed Changes
Intellectual/developmental disability	<ul style="list-style-type: none"> <li>• Modernize the level of care to allow the state to better serve individuals; and</li> <li>• Target services for high-needs and complex children and adults with intellectual disabilities, development disabilities, and/or ASD.</li> </ul>
ASD and medically fragile waivers	<ul style="list-style-type: none"> <li>• Combine waivers to create a cross disability individual family support waiver;</li> <li>• Target population would include children ages 3-18 with mild to moderate support needs (children ages 0-3 and children ages 3-18 with higher support needs would be served under the intellectual/developmental disability waiver);</li> <li>• Create a new level of care for children ages 3-5;</li> <li>• Use family navigators to support person-centered planning; and</li> <li>• Service array would include cost-effective community interventions that support children with disabilities and their families.</li> </ul>

The report noted the proposed changes will result in additional costs to the state. Options to limit costs include limiting the number of individuals that may receive a waiver, limiting the amount of funding that can be utilized by an individual, and limiting the array of services provided.

The report provides the following recommendations regarding the ASD waiver program and the ASD voucher program:

- Add sufficient slots to the ASD waiver program to ensure there is no wait list to receive services through the program.
- Require all current and future ASD voucher program recipients and applicants to apply for services through the ASD waiver program. Allow an individual to apply for the ASD voucher program only if denied admission to the ASD waiver program.
- Align the services provided under the waiver and voucher programs.
- Create a cross-disability advisory committee with a majority of members having a disability or having a family member with a disability. Membership should be diverse to gather input from individuals, including those with autism, an intellectual disability, or developmental disability.

Mr. Christopher D. Jones, Executive Director, Department of Human Services, provided comments regarding the study. He noted the department does not support placing limits on program enrollments. He indicated costs to implement the proposed changes would be significant and require additional staff.

Ms. Roxane Romanick and Mr. Carl Young provided comments to the committee regarding the study.

Mr. Matthew Beilke provided comments to the committee and distributed written testimony ([Appendix G](#)).

### **STUDY OF EMPLOYMENT RESTRICTIONS IN PUBLIC ASSISTANCE PROGRAMS**

Ms. Jessica Thomasson, Executive Policy Director, Department of Human Services, presented information ([Appendix H](#)) regarding benefit cliffs in public assistance programs. She noted:

- A "benefit cliff" occurs when an individual loses public assistance program benefits as a result of an increase in earnings.
- A "hardship gap" occurs when earned income is greater than the poverty level but less than the cost of living.
- The state is using flexibilities in federal program guidelines to reduce the effect of the benefit cliff.

### **TRIBAL HEALTH CARE COORDINATION FUND**

Ms. Caprice Knapp, Medicaid Director, Department of Human Services, presented a report ([Appendix I](#)) pursuant to Section 50-24.1-40(4) regarding the tribal health care coordination fund. She noted:

- DHS can facilitate care coordination agreements between health care providers and tribal health care organizations that will result in 100 percent federal funding for eligible medical assistance provided to an American Indian.
- Any funding received in excess of the state's regular share of federal medical assistance funding due to a care coordination agreement is to be deposited 80 percent in the tribal health care coordination fund and 20 percent in the general fund.
- To date no additional federal funds have been received due to care coordination agreements.

### **EARLY CHILDHOOD PROGRAMS**

Ms. Kay Larson, Director, Early Childhood Division, Department of Human Services, presented an update ([Appendix J](#)) on early childhood programs. She noted:

- The best in class program was authorized by the 2021 Legislative Assembly to provide quality early childhood experiences for children in the year before kindergarten.
- A total of 23 programs received funding during the 2021-22 school year and 38 programs have been approved to date to receive 2022-23 school year grants.

## HUMAN SERVICE ZONES

Ms. Sara Stolt, Chief Operating Officer, Department of Human Services, presented an update ([Appendix K](#)) regarding studies affecting human service zones. She noted:

- A request for proposal is being issued to assist in the review of human service zone employee and DHS compensation discrepancies. Information provided by the consultant will be made available during the 2023 regular legislative session.
- DHS is working with human service zones, county auditors, and others to review options to adjust the indirect cost reimbursement method for human service zones. A final report will be issued by August 1, 2022.

No further business appearing, Chairman Lee adjourned the meeting at 4:30 p.m.

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Brady A. Larson  
Assistant Legislative Budget Analyst and Auditor

ATTACH:11