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During the North Dakota Legislative Session, CHAD monitors bills that may be of interest to CHCs and provides weekly reports each Friday. If you are aware of any issues CHAD should know about or if you have any questions, contact:

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The Third Week

By Rod St. Aubyn

The third week of the legislature delivered the same pace of hearings as the previous week. Shelly described in an update earlier this week some of the activities early in the week. Those included:

- News that [Governor Burgum's budget](#) includes funding for the reauthorization of Medicaid Expansion.
- We provided testimony opposing SB 2138 which would have established a duplicative state certification and background checks for Navigators and Certified Application Counselors.
- The release of separate letters from the Governor and the Insurance Commissioner to Congressional Committee Chairs offering their thoughts on federal health reform initiatives.
- Bill hearing on HB 1256 establishing Dental Therapists; more details on this hearing are included in this legislative summary.

In addition to all of that activity, there were four separate hearings this week on bills dealing with the reauthorization of Medicaid Expansion. No action has been taken on any of those bills. It is expected that all of these bills will be re-referred to the House Appropriations subcommittee that is dealing with the Department of Human Services Appropriation Bill (HB 1012).

The final bill submission deadline is fast approaching at the end of the day on Monday, Jan. 23. It appears the total number of bills introduced is somewhat lower compared to more recent years, but that could still change. As of the time of this writing, 435 bills have been introduced in the House, while 287 bills have been introduced in the Senate. Study Resolutions can still be introduced, but typically they are not as troublesome as regular bills. Delayed bills can still be introduced if they go through what is called the Delayed Bills Committee. However, approved delayed bills are pretty rare. Dana and I are currently tracking about 75 bills. I expect many of these will go off of our lists after we have heard the testimony in committee in the first house of origin, and we determine they will not impact our community health centers.

One somewhat unique requirement of the ND Legislature is that every bill that is introduced must get a hearing in a committee, a recommendation vote by the standing committee, AND a final vote in the

house of origin. Unlike many other states, a committee cannot “kill” a bill. They only make a committee recommendation and a final vote must still be done in the appropriate house. All bills in a particular chamber must be acted on by that house by Friday, Feb. 24, and approved bills are messaged over to the second house. Feb. 24 is called the “Cross Over Date.” Both chambers will be rushing to get their business done by that date and appropriation bills also concluded by that date, so they can repeat that process in the other house. In football terms, that is considered their halftime. It ends up being a very frantic time for legislators. As a result, you can expect a very busy next few weeks.

Recap: Week of Jan. 16-20

Below is a summary of some of the bills CHAD is monitoring that had hearings or votes this past week.

SB 2138 – Certification of assisters for health benefit exchanges

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0445-01000.pdf>

This bill was heard by the Senate Judiciary Committee and required that "assisters" for health benefit exchanges (commonly called navigators or certified application counselors) must be certified by the ND Insurance Department office and go through a background check. The bill was introduced by legislators who happen to also be health insurance agents. They felt these "assisters" are NOT fully qualified to give insurance advice like an insurance agent can provide. A navigator contractor provided testimony with many questions about the bill. Rod provided testimony emphasizing this is a duplicative process already required by the federal government for a federal program. The Deputy Insurance Commissioner also provided testimony complementing aspects of Rod's testimony. The committee voted 6-0 for a Do Not Pass recommendation. The committee chair will be "carrying" the bill on the Senate floor for a final vote sometime next week.

HB 1259 – Medicaid Expansion

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0747-01000.pdf>

This is one bill of four that removed the "sunset" for Medicaid Expansion, which is due to expire on June 30, 2017. In addition, currently Medicaid Expansion is contracted out to a private carrier (Sanford Health Plan) as a managed care product. Current law also contains language that prevents the Department of Human Services from filing a claim against an estate to recover payments made for an applicant "who received coverage through a private carrier." The Department is interested in running the program in-house as a fee for service instead of the managed care program. They claim they can save the state a net of \$650,000 by doing this in-house. If the legislature agrees to do it in-house, they need to strike "who received coverage through a private carrier," otherwise the individual's estate may be subject to a recovery. CHAD signed in as a supporter of this bill, along with many other entities like AARP, ND Hospital Association and about 70 other entities. No action was taken on this bill.

HB 1032 – Provider reimbursement rates for Medicaid

Expansion <http://www.legis.nd.gov/assembly/65-2017/documents/17-0262-02000.pdf>

This is one of three consecutive bills that came from the Interim Legislative Health Care Reform Review Committee. One thing all three bills do is remove the sunset provision of Medicaid Expansion, in other words all three bills reauthorize Medicaid Expansion. The other component in this bill includes a provision that establishes the reimbursement rates for providers will be the same as the reimbursement rates under the standard Medicaid program. The coalition of Medicaid Expansion Supporters, which included CHAD, testified in support of the bill, but stated they preferred the former Medicaid Expansion provider rates, which were higher than the traditional Medicaid rates. The House Appropriation Committee took no action, but instead referred the bill to the House Appropriations Subcommittee

dealing with the Department of Human Services appropriations bill.

HB 1033 – Cost sharing for Medicaid Expansion

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0263-02000.pdf>

This second Medicaid Expansion bill also removes the sunset on Medicaid Expansion and requires the Department of Human Services to pursue a federal Medicaid waiver to allow the department to implement premium cost-sharing for Medicaid Expansion individuals. Maggie Anderson, the interim Executive Director of the Department of Human Services, indicated this type of waiver has been approved in some states with minimal savings. She stated Montana adopted such a waiver and realized very small savings. There is a provision in the bill that states the Department cannot implement premium cost-sharing if the state's share of annual cost of administration of the program exceeds the state's share of premium collected. Another provision in the bill provides legislative intent for the Department of Human Services to pursue steps to facilitate receipt of 100% federal funding for those eligible provided to American Indians through care coordination agreements that was initially considered by South Dakota. Though providers were supportive of the reauthorization of Medicaid Expansion, there was little interest in the other provision of the bill dealing with premium cost-sharing. The House Appropriation Committee took no action, but instead referred the bill to the House Appropriations Subcommittee dealing with the Department of Human Services appropriations bill.

HB 1034 – Provider reimbursement rates for Medicaid

Expansion <http://www.legis.nd.gov/assembly/65-2017/documents/17-0264-02000.pdf>

The third Medicaid Expansion bill removes the sunset on Medicaid Expansion. In addition, the bill stipulates that if the Medicaid Expansion is provided through bidding by outside contractors, the contract must provide full transparency to the Department of Human Services regarding provider reimbursement rates, but maintains this information will be considered confidential. The House Appropriation Committee took no action, but instead referred the bill to the House Appropriations Subcommittee dealing with the Department of Human Services appropriations bill.

HB 1012 & HB 1072 – Department of Human Services appropriation

1012 (legislative baseline) <http://www.legis.nd.gov/assembly/65-2017/documents/17-0497-01000.pdf>

1072 (Dalrymple's budget) <http://www.legis.nd.gov/assembly/65-2017/documents/17-8146-01000.pdf>

The House Appropriations-Human Resources continued review of detailed budgets for each DHS service area. [Public testimony](#) is planned for Jan. 24-25. On Jan. 24, behavioral health is scheduled for 9:45 a.m. and Medicaid is scheduled for 10:45 a.m.

BEHAVIORAL HEALTH

SB 2039 – Department of Human Services role and behavioral health funding

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0204-03000.pdf>

SB 2039 was heard before the Senate Human Services Committee. It is an interim bill that changes the role and function of DHS behavioral health services, including behavioral health definitions; administration of behavioral health programs; licensure process for regional human service centers; services available to individuals with serious and persistent mental illness; membership and role of advisory groups for human services centers; and designation of the location of a second state hospital. It also provides for behavioral health providers to furnish preventive diagnostic, therapeutic, rehabilitative, or palliative services to individuals eligible for medical assistance, similar to last session's substance abuse voucher program. It passed the Senate by a 43-2 vote.

HB 1117 – Department of Human Services housekeeping

<http://www.legis.nd.gov/assembly/65-2017/documents/17-8064-01000.pdf>

HB 1117 was heard by the House Human Services Committee and introduced at the request of DHS as a housekeeping bill to change language from mental health and substance abuse to behavioral health. The bill passed the House by an 82-11 vote.

HB 1136 – Substance abuse vouchers

<http://www.legis.nd.gov/assembly/65-2017/documents/17-8080-01000.pdf>

HB 1136 was heard before the House Human Services Committee and is similar to SB 2039. This bill adds medical facilities to the substance abuse voucher program as this is not currently in state law. It passed the House by a 94-0 vote and the emergency clause carried.

WORKFORCE**HB 1256 – Regulation of dental therapists (DT)**

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0709-02000.pdf>

This controversial bill with similar language was introduced in 2015 and defeated in the Senate. It was reintroduced in 2017 in the House. One of the purposes of the bill was to expand dental access in North Dakota for both the rural areas and also for Medicaid patients. The bill was scheduled to take 1½ hours, but was not completed until a little more than 3 hours. The supporters of the bill presented good testimony of the need for this bill to establish a new mid-level dental provider fully trained to perform a limited number of preventive and restorative dental procedures. The cost to perform these procedures is about half of the cost of the dentist. The DT would have to work under the supervision of a dentist, and the dentist would specify limits on the scope of duties the DT could perform under a "management agreement," similar to a collaborative practice agreement used for APRN, PAs and other medical professionals. Many people and many organizations (AARP, ND Association of APRN, Dental Hygienist Association, Family Voices, ND Women's Network, Heartland Institute) testified in support of the bill. The DT would have to graduate for a CODA-approved program (the accreditation entity that approves academic programs for dentists and dental hygienists). There are four states that have already approved a similar DT position. Several individuals (mostly dentists) and the ND Dental Association opposed the bill. The NDDA stated 95% of their membership is opposed to this DT model. Many opposed expressed concern about the quality of care. A dentist from a FQHC from the Fargo area testified against the bill, expressing his concerns that many of the patients he sees have significant dental issues that could not be treated with the limited scope of practice provided by the DT. Shawndra Schroeder, Center for Rural Health, testified in a neutral position to inform the committee they are currently doing a dental study and have been surveying ND dentists. So far in their survey, 16% of ND dentists were open to the DT, while 24% of rural dentists would support the DT. No action was taken on the bill by the committee.

SB 2117 – Medicaid provider background checks

<http://www.legis.nd.gov/assembly/65-2017/documents/17-8070-01000.pdf>

SB 2117, heard before the Senate Judiciary Committee, brings DHS into compliance with federal requirements by providing for criminal history record checks to be conducted for Medicaid services applicants, providers and staff members and for job applicants for DHS, county social services, contractors and subcontractors that have access to federal tax information received from the IRS. The cost of the additional background checks will be offset by DHS's ability to charge a fee for the background check. It passed the Senate by a 45-1 vote with emergency clause Jan. 11.

HB 1261 – Workers compensation coverage of emergency volunteers

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0286-01000.pdf>

HB 1261, heard before the House Industry, Business and Labor Committee, makes a mental injury arising from a mental stimulus compensable; alters the average weekly wage coverage for volunteer firefighters and other emergency volunteers, including a volunteer health practitioner; and creates a presumption of compensability for volunteer firefighters and other emergency volunteers for certain conditions. The committee gave the bill an 11-2 do not pass recommendation, and it is on the House floor on Friday.

SB 2164 – Participation of advanced practice registered nurses in guardian and conservator proceedings

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0012-02000.pdf>

This bill simply expands the list of providers permitted to perform specified guardian and conservator proceedings to the advanced practice registered nurse. It was reported that another bill, HB 1095, included amendments to be heard in the House the same day as this hearing to establish a term of "expert examiners" to also include the APRN. If that bill passes, it would serve the same purpose as this bill. The Committee decided to hold on to this bill to see what happens to HB 1095. If HB 1095 passes in the house, then committee may recommended to defeat this bill since it would no longer be needed. No action was taken yet by the committee at this time.

OTHER**HB 1227 – Definition of Medicaid fraud**

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0615-01000.pdf>

HB 1227 is one of three bills (also HB 1226 and HB 1174) designed to establish a Medicaid fraud unit in the Attorney General's office, which is necessary because North Dakota has been denied continuation of a federal exemption from establishing such a unit. This bill includes the definition of Medicaid fraud. Legislators on the House Human Services Committee raised questions during the Jan. 25 hearing about further defining terms such as "misleading" and "definition." There were also questions about why three separate bills were introduced, which the Attorney General's office recognized was probably a mistake and suggested they might be combined going forward. No action was taken.

SB 2153 – Emergency care for minor

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0661-02000.pdf>

This bill was heard by the Senate Human Services Committee and was introduced to attempt to clarify the language that was passed during the 2015 Legislative Session. The original intent of the law was to allow a physician or other health care providers to be able to provide emergency medical care or forensic services for a minor who was between 13 and 17 years old without the consent of the minor's parents or guardians when the minor presented at the medical facility for these emergency services. However, after a lot of discussion within the committee, it was felt that the language offered in the bill could result in even more confusion for the medical facility. There was to be another similar bill to be heard later in the week. It was decided to hold onto this bill to determine if better language could be offered to clarify the bill's intent. No committee action has been taken yet.

HB 1187 – Medical food program for phenylketonuria (PKU) or maple syrup urine

disease <http://www.legis.nd.gov/assembly/65-2017/documents/17-0639-01000.pdf>

Currently, patients with rare metabolic diseases, PKU and maple syrup urine disease, are provided free special foods by the Department of Health for men under 22 and women under 45. This bill would eliminate the age limits for this program. Testimony indicated very few states provide this benefit for

even younger adults. The committee had a lot of questions, but took no action on the bill.

HB 1029 – Rules for acceptance of federal grants and a study of regulatory requirements placed on ND state government agencies by US government agencies

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0196-01000.pdf>

This interim committee bill requires state agencies go through a process to determine what federal obligations are tied to federal grants before accepting a federal grant. In addition, it calls for a legislative study of the issue during the next legislative interim period. There was some opposition to the legislation, especially for higher education personnel who often secure federal grants. We have some concerns if Medicaid funds end up being distributed via block grants to states how this requirement may impact Medicaid funding. While the intent may be appropriate, how it is used and affects agencies may be problematic. It was heard by the House Appropriations Committee who took no action.

SB 2116 – Disclosure of patient records for report child abuse

<http://www.legis.nd.gov/assembly/65-2017/documents/17-8069-01000.pdf>

SB 2116 was heard before the Senate Human Services Committee. Introduced at the request of the Department of Human Services, the bill requires health professionals and providers to submit requested patient files related to reported child abuse or neglect. It passed the Senate by a 46-0 vote.

SB 2173 – Duties of health council

<http://www.legis.nd.gov/assembly/65-2017/bill-index/bi2173.html>

SB 2173, heard by the Senate Human Services Committee, removes outdated duties of the health council to monitor health care costs and the quality of health care in the state, as the funding was removed several sessions ago. The bill passed Senate by a 45-0 vote.

Hearing Schedule: Jan. 23-27

This is next week’s hearing schedule for bills CHAD is monitoring this session. Key bills are highlighted in bold. If you have comments on bills being heard by committee or if you plan to testify, please let [Rod](#) know as soon as possible.

01/23/2017 09:00 AM 	<u>HB</u> <u>1012</u>	A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions.	House Appropriations - Human Resources Division	Sakakawea
01/23/2017 09:00 AM 	<u>SB</u> <u>2151</u>	Relating to health care directives.	Senate Judiciary	Fort Lincoln
01/23/2017 09:00 AM 	<u>HB</u> <u>1226</u>	Relating to the creation of a medicaid fraud control unit in the attorney general's office.	House Human Services	Fort Union
01/23/2017 09:00 AM 	<u>SB</u> <u>2184</u>	Relating to phlebotomists and notification protocol in the case of exposure to an infectious organism; to amend and reenact sections 23-09.3-04 and 23-17.3-05 of the North Dakota Century Code, relating to notification protocol in the case of exposure to an infectious organism; and to provide an effective date.	Senate Human Services	Red River
01/23/2017 09:30	<u>SB</u> <u>2235</u>	Relating to the interstate medical licensure compact.	Senate Human Services	Red River

AM 				
01/23/2017 10:45 AM 	HB 1312	Relating to the prohibition of an individual under nineteen years of age from purchasing and using tobacco products; and to provide a penalty.	House Human Services	Fort Union
01/23/2017 02:30 PM 	HB 1012	A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions.	House Appropriations - Human Resources Division	Sakakawea
01/24/2017 08:30 AM 	HB 1012	A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions.	House Appropriations - Human Resources Division	Sakakawea
01/24/2017 09:00 AM 	HB 1403	Relating to public employee health benefits transparency.	House Industry, Business and Labor	Peace Garden
01/24/2017 10:15 AM 	SB 2240	Relating to temporary emergency suspension of marriage and family therapists; and to amend and reenact section 43-53-03 of the North Dakota Century Code, relating to exceptions from licensure for marriage and family therapists.	Senate Human Services	Red River
01/24/2017 10:45 AM 	SB 2198	Relating to the regulation of medical imaging and radiation therapy; and to declare an emergency.	Senate Human Services	Red River
01/24/2017 02:30 PM 	HB 1371	Relating to a licensure grandfathering provision; and to amend and reenact sections 43-62-01, 43-62-04, 43-62-09, 43-62-14, 43-62-15, 43-62-17, and 43-62-19 of the North Dakota Century Code, relating to the regulation and licensure of medical imaging and radiation therapy practitioners.	House Human Services	Fort Union
01/24/2017 02:30 PM 	HB 1012	A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions.	House Appropriations - Human Resources Division	Sakakawea
01/25/2017 08:30 AM 	SCR 4001	A concurrent resolution authorizing the Budget Section of the Legislative Management to hold the required legislative hearings on state plans for the receipt and expenditure of new or revised block grants passed by Congress.	Senate Appropriations	Harvest
01/25/2017 08:30 AM 	HB 1015	A BILL for an Act to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide an exemption; and to provide a statement of legislative intent.	House Appropriations - Government Operations Division	Medora
01/25/2017 08:30 AM 	HB 1012	A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions.	House Appropriations - Human Resources Division	Sakakawea
01/25/2017 09:00 AM 	SB 2251	Relating to substance exposed newborns; and to amend and reenact sections 50-25.1-02, 50-25.1-05, 50-25.1-06.1, and 50-25.1-09 of the North Dakota Century Code, relating to substance exposed newborns.	Senate Human Services	Red River
01/25/2017 09:00 AM 	HB 1406	Relating to public employee uniform group health insurance benefits; to provide for application; and to declare an emergency.	House Industry, Business and Labor	Peace Garden
01/25/2017	HB	Relating to grounds for disciplinary action by the medical board.	House Human	Fort Union

09:00 AM 	<u>1289</u>		Services	
01/25/2017 09:00 AM 	<u>HB 1407</u>	Relating to the term of the public employee uniform group insurance contract for health benefits coverage; to provide for application; and to declare an emergency.	House Industry, Business and Labor	Peace Garden
01/25/2017 09:15 AM 	<u>HB 1314</u>	Relating to limited liability for use of automated external defibrillators.	House Human Services	Fort Union
01/25/2017 09:30 AM 	<u>SB 2216</u>	Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.	Senate Judiciary	Fort Lincoln
01/25/2017 10:00 AM 	<u>SB 2274</u>	Relating to a community behavioral health plan as a term of parole or an alternative to incarceration; to provide for a legislative management study; and to provide an appropriation.	Senate Human Services	Red River
01/25/2017 02:30 PM 	<u>HB 1012</u>	A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions.	House Appropriations - Human Resources Division	Sakakawea
01/27/2017 08:30 AM 	<u>HB 1012</u>	A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions.	House Appropriations - Human Resources Division	Sakakawea

How to Contact Your Legislators

During the session, legislators can be reached at the Capitol by leaving a message with the legislative telephone message center at 888-NDLEGIS (635-3447). A legislator can also be reached by email, phone or mail as listed in the legislator's online bio: [Senate](#) or [House](#). Detailed information on legislative activities is available on the [Legislative Assembly website](#).

2017 Legislative Deadlines

Jan. 23 Deadline for senators to introduce bills
Feb. 2 **CHAD Legislative Briefing and Reception**
Feb. 24 Crossover for bills
Feb. 27-28 Recess
April 28 Session limited to 80 days

Community HealthCare Association of the Dakotas (CHAD)