

**Business and Labor Committee**  
**LB 536**  
**March 18, 2013**

**Kerry Winterer, CEO**  
**Department of Health and Human Services**

Good afternoon Senator Lathrop and members of the Business and Labor Committee. I'm Kerry Winterer [K-E-R-R-Y W-I-N-T-E-R-E-R], and I have the privilege of being the CEO of the Department of Health and Human Services. I'm here to testify in support of LB 536, which would permit us to write off certain debts owed to DHHS for fiscal or accounting purposes.

The total debt for which we are requesting write off authorization is in the amount of \$2,000,345.73. While this request is smaller than last year, I recognize it is still larger than in years past. The purpose of my testimony is to identify for you the reasons why the request remains larger than past years and provide additional information in anticipation of questions you may have.

The requested write offs relate to debts owed by way of assistance provided through seventeen programs. The debts are due to overpayments made or services provided for which we have not been reimbursed.

Prior to submittal of these debts for write off, the agency pursued recovery through one or more of the following efforts: (1) regular billing statements; (2) recoupment; (3) demand letters signed by the program, by one of the agency's directors, and/or by one of the agency's attorneys; (3) telephone calls; (4) referral to a collection agency and use of credit reporting; and (5) litigation.

Each of these debts is currently uncollectible either because (1) the debt arises out of an insufficient check and the account is for under \$25; (2) the debtor has since passed away with no probate recovery; (3) the debt was discharged in bankruptcy; (4) the debt was resolved as part of an approved settlement agreement; (5) the debt has been determined to be uncollectable either by the agency's legal counsel or an outside collection agency; or (6) the debt is past the applicable statute of limitations. These categories and DHHS's presentation of these debts for write off is consistent with DHHS's Collection Policy.

In total there are 1,540 individual debts included in this year's write off request. Most of the debts arise from overpayments made to people receiving public assistance, either because of worker error or because of recipient error. In the event of recipient error, those incidents most commonly occur when the recipient has failed to report additional income, an additional person living in the household, or the absence of a dependent.

The overwhelming number of debts included in this year's request is for \$5,000 and under. Most of those are for \$1,000 or under. The larger debts submitted for write off relate to debts that were owed to our care facilities. Those debts are, inherently, going to be larger because we're generally talking about attributing a shared cost of care and, when that shared cost of care is not paid, it can quickly balloon in size resulting in larger debt owing.

While this year's submission is larger than most, it is down to nearly half of what was submitted by the agency for write off last year. It remains larger than other years for several reasons:

- The three Veterans' Homes were not included in last year's write off amount. All of the debt submitted on behalf of the Veterans' Homes for write off is due to the debtors now being deceased with no probate recovery. The total additional debt added by the Veterans' Homes this year is \$217,674.94.
- There's been a sharp increase in debt where the debtor is now deceased. Whereas last year the total debt submitted due to death was \$12,446.30, the total debt submitted due to death this year is \$680,706.01. Recovery from decedent estates is quite limited; most debtors owing the Department have no estate to probate leaving the agency with no recovery to be had.
- The Department is continuing to experience limited recovery from many debtors even with the use of outside collection agencies. The Department has been using a collection agency since early 2008. Of those debts submitted as being past the statute of limitations, many involved debtors who were on needs based assistance at the time the debt went past the limitations period or involved debts that have been returned as "uncollectible" following submission to a collection agency.
  - Specifically, \$428,112.86 of the debt that is now past the statute of limitations was referred to one, if not both, of the outside collection agencies and returned due to the inability to garner recovery.
  - Another \$465,832.83 of that debt that is now past the statute of limitations involved debtors who were on needs based assistance at the time the statute of limitations period ran, meaning a determination had already been made that they were of very limited resources without likelihood of recovery.

Thank you for the opportunity to be here today. I'm happy to answer any questions you may have.

**Nebraska Department of Health and Human Services  
LB 536 – Claims Board Write-Off FY 2012**

This includes a brief description of each of the programs debts included in LB 536.

**Developmental Disabilities Services** – There are 19 debts owed to DDS ranging in size from \$12.21 to \$219,538.47. For the most part, these are due to the non-payment of share of cost for services provided. The debts are included for write-off either because (in the case of two debts under \$50.00) the size of the debt makes further efforts cost prohibitive, because the debtor has since passed away with no probate recovery, the debt was discharged in bankruptcy, or the debtor remained on needs based assistance at such time as the debt passed the statute of limitations. The largest debt included in this year's write off was a client receiving residential services whose parents were attributed a share of cost for her care where the statute of limitations has since passed leaving the debt uncollectible.

**Beatrice State Developmental Center** – There is one debt included in this year's write off that is owed to BSDC, in the amount of \$14,506.60. The debt was owed from the parents of an individual living at BSDC based on a determination as to the parent's share of cost. The debt was referred to a collection agency and has since passed the statute of limitations.

**The Regional Centers (LRC, NRC, HRC)** – There are twenty-five debts included in this year's write-off owed to the Regional Centers with the smallest being \$64.64 and the largest being \$180,674.00. Like the debt owed BSDC, this debt arose from a share of cost determination and subsequent non-payment. All but one of these debts was referred to a collection agency except for the largest one, which is included due to the debtor having passed away with no probate recovery available.

**The Veterans Homes (GIVH, ENVH, WNVH)** – There are now nine debts included in this year's write off ranging in size from \$352.86 to \$114,331.65. One debt previously included has been pulled resulting in a decrease of our write off request of \$15,194.08. That debt was pulled as the debtor's estate was looking into assets from which there may be some recovery. All of these debts arose from a share of cost determination and non-payment and are now presented for write off due to the passing away of the debtor with no probate recovery.

**Vital Records** – There are 23 debts owed to Vital Records, attributed to bad checks ranging in size from \$11.00 to \$48.00. The debt is associated with the issuance of various vital records such as copies of birth and death certificates. A check charge was added to each bad check in the amount of \$20.00. These debts combine for a total of \$904.00.

**Public Health Environmental Laboratory** – There are 29 debts owing the State's Environmental Lab which are included in this year's request. These debts arise out of laboratory testing on various facilities' water source. The fees which have gone unpaid range in size from \$7.00 to \$277.00. The 29 debts combine for a total of \$889.50.

**Assistance to the Aged Blind and Disabled** – These debts arose because of overpayments due to either worker error or the client’s failure to report changes in circumstances affecting eligibility or the amount of the payment to be received. There are 36 individual debts comprising this portion of the write off request ranging in size from \$28.79 to \$4,980.00. The reasons for the write-offs of these debts is either because the debtor has passed away and there’s been no probate recovery, the debt was discharged in bankruptcy, or the debt is uncollectable, either per the collection agency or because the debtor was on needs based assistance at such time as the debt went past the statute of limitation

**Children and Family Services (Foster Care)** – These debts likewise arose because of overpayments due to either worker error or the provider’s failure to report. There are 82 individual debts in this category, ranging in size from \$3.67 to \$11,362.20, each being written off due to death, bankruptcy, or it being uncollectable per either the collection agency or application of the statute of limitations.

**Child Care** – There are 137 debts comprising this portion of the write off request ranging in size from \$49.00 to \$9,033.50. The overpayments came about due to overpayments made to child care providers on behalf of DHHS clientele. The reasons for write off are due to discharge in bankruptcy, application of the statute of limitations, or (in one case) a settlement agreement resulting in a portion of debt not being recovered (reducing a debt by \$880.00).

**Aid to Dependent Children** – There are 286 debts comprising this portion of the write-off request ranging in size from \$2.00 to \$6,140.00. These debts arose either because of worker error or because of the client’s failure to report a change in circumstances. The write-offs are due to death, bankruptcy, settlement agreement (reducing one debt by \$1,551.00), or because of the application of the statute of limitations.

**Medicaid** – The overpayments at issue came about because of computer error in 2008 resulting in Medicaid paying Medicare Part B premiums for Medicaid clients who were not, otherwise, eligible for that benefit. Specifically, the payment of one or more months of Medicare Part B premiums was made. Medicare is federally administered health insurance available to aged and disabled people who meet federal enrollment guidelines. Part B of that insurance helps cover doctors’ services and outpatient hospital care. Some DHHS customers who are eligible for both Medicaid and Medicare are eligible for Medicaid to pay their monthly Part B premium, called the “State Buy In,” through a highly automated exchange. On July 14, 2008, a computer error was introduced into this automated exchange resulting in Nebraska Medicaid paying Part B premiums for more Medicaid clients than were, otherwise, eligible. The resulting overpayment included in this write-off request totals \$171,793.84 with the largest individual debt amounting to \$482.00. A notification letter was sent to each person whose Part B premium was incorrectly paid and monthly billing statements have continuously followed. The debtors included in this area of write-off are now all deceased with no probate recovery.

**Subsidized Adoptions/Guardianship Medical (SA/Med and SG/Med)** – This debt arose because of incorrect payments, either in the amount paid or because a payment was made after the child turned nineteen or, in the case of a guardianship, the guardianship was dissolved earlier and the worker was not notified or it was too close in time to the payment to make the change. The total debt included in these two areas is \$40,918.11 with the debts dating back to the late 1990s. All debtors were sent notices and monthly billing statements as well as a letter from the director demanding payment, with the exception of the debts discharged in bankruptcy.

**Juvenile Court (JC)** – This debt arose out of overpayments for services made on behalf of children receiving services through a court order to three different entities. Regular billing statements were sent to these entities but the two entities with the largest debt owing the Department then went out of business. Those debts, along with the remaining debt owing from the third entity in the amount of \$839.99, have since passed the statute of limitations.

**Social Services to the Aged and Disabled (SSAD)** – This debt arose out of overpayments to chore providers. These providers, paid as independent contractors on behalf of Department clients, help aged and/or disabled persons who qualify remain in their homes by performing certain chores which may include a wide range of household tasks necessary for maintaining and running a person's home when that person is unable to perform some or all of them. For example, this includes doing essential shopping, preparing food, cleaning, and laundry. The overpayments occurred as far back as 1999 and total \$789.30 with the largest individual debt amounting to \$219.79. All of the debtors were sent overpayment notices, monthly billing statements, and director and legal letters demanding repayment. Some of the debtors were, themselves, on needs based assistance. These debts are all now past the statute of limitations.

**Personal Assistance Services (PAS)** – This debt, like that owed to SSAD, arose out of overpayments to chore providers providing services to persons with disabilities and chronic conditions of all ages who need assistance to enable them to accomplish tasks that they would normally do for themselves if they did not have a disability. Those clients receiving this support must meet one or more requirements above those for SSAD. In addition, the payment source for PAS differs from SSAD, hence the different programs. The two PAS overpayments submitted with this year's write off request occurred in 2009 with the combined debt totaling \$208.86. Both debtors were sent overpayment notices, monthly billing statements, director and legal demand letters. Both debtors have since passed away with no probate recovery.

**Aid to the Disabled (AD)** – As with SSAD and PAS, this debt involved chore providers who were overpaid in providing services to Department clients. AD services include things such as assisting in organizing and/or paying bills, personal care services such as shaving, grooming, eating, mobility, etc., and even staying with certain clients for part of the day when s/he would otherwise be alone, all toward helping client maintain an ability to remain in their homes. The total requested write off from AD services is \$3,515.78 with some of the debt owed from as far back as 1999. All were sent notifications and billing statements. Several debtors have since deceased and those that haven't have since passed the statute of limitations.

DEPARTMENT OF HEALTH & HUMAN SERVICES  
 CLAIMS BOARD WRITE-OFF REQUEST  
 FY 2012

Write-Off Categories

| PROGRAMS OR FACILITIES          | <u>Insufficient Fund,<br/>Checks/Accounts<br/>Under \$25</u> | <u>DEATHS</u>     | <u>BANKRUPTCIES</u> | <u>AG APPROVED<br/>SETTLEMENTS</u> | <u>SOL/Deemed<br/>Uncollectible<br/>Following<br/>Referral to<br/>Collection<br/>Agency/Per</u> | <u>TOTALS</u>       |
|---------------------------------|--|-------------------|---------------------|------------------------------------|---|---------------------|
| <b>FINANCIAL RESPONSIBILITY</b> |  |                   |                     |                                    |   |                     |
| DDS                             | 127.97   | 102,529.09        | 6,991.74            | 0.00                               | 704,646.33  | 814,295.13          |
| BSDC                            | 0.00   | 0.00              | 0.00                | 0.00                               | 14,506.60   | 14,506.60           |
| LRC                             | 0.00   | 180,674.00        | 0.00                | 0.00                               | 42,336.02   | 223,010.02          |
| NRC                             | 0.00   | 0.00              | 0.00                | 0.00                               | 11,936.15   | 11,936.15           |
| HRC                             | 0.00   | 0.00              | 0.00                | 0.00                               | 1,077.34  | 1,077.34            |
| VETERANS' HOMES                 | 0.00   | 217,674.94        | 0.00                | 0.00                               | 0.00  | 217,674.94          |
| VITAL RECORDS                   | 904.00   | 0.00              | 0.00                | 0.00                               | 0.00  | 904.00              |
| HEALTH LAB                      | 889.50   | 0.00              | 0.00                | 0.00                               | 0.00  | 889.50              |
| <b>TOTALS</b>                   | <b>1,921.47</b>  | <b>500,878.03</b> | <b>6,991.74</b>     | <b>0.00</b>                        | <b>774,502.44</b>   | <b>1,284,293.68</b> |
| AABD                            | 0.00   | 4,827.50          | 2,160.00            | 0.00                               | 19,479.62   | 26,467.12           |
| FOSTER CARE (CFS)               | 0.00   | 466.66            | 1,582.02            | 0.00                               | 71,245.20   | 73,293.88           |
| CHILD CARE (CC)                 | 0.00   | 0.00              | 38,303.50           | 880.00                             | 165,750.59  | 204,934.09          |
| ADC                             | 0.00   | 1,207.00          | 3,445.00            | 1,551.00                           | 177,697.04  | 183,900.04          |
| MEDICAID                        | 0.00   | 171,793.84        | 0.00                | 0.00                               | 0.00  | 171,793.84          |
| SA/MED                          | 0.00   | 0.00              | 2,835.67            | 0.00                               | 30,335.30   | 33,170.97           |
| SG/MED                          | 0.00   | 0.00              | 0.00                | 0.00                               | 7,747.14  | 7,747.14            |
| JC                              | 0.00   | 0.00              | 0.00                | 0.00                               | 25,325.11   | 25,325.11           |
| SSAD                            | 0.00   | 0.00              | 0.00                | 0.00                               | 789.30  | 789.30              |
| PAS                             | 0.00   | 208.86            | 0.00                | 0.00                               | 0.00  | 208.86              |
| AD                              | 0.00   | 1,324.12          | 0.00                | 0.00                               | 2,191.66  | 3,515.78            |
| <b>TOTALS</b>                   | <b>0.00</b>  | <b>179,827.98</b> | <b>48,326.19</b>    | <b>2,431.00</b>                    | <b>500,560.96</b>   | <b>731,146.13</b>   |
| <b>Grand Totals for FY 2012</b> | <b>1,921.47</b>  | <b>680,706.01</b> | <b>55,317.93</b>    | <b>2,431.00</b>                    | <b>1,275,063.40</b>   | <b>2,015,439.81</b> |

|                   |   |
|-------------------|---|
| AABD              | ASSISTANCE TO THE AGED BLIND AND DISABLED |
| Foster Care (CFS) | CHILDREN AND FAMILY SERVICES              |
| CC                | CHILD CARE                                |
| ADC               | AID TO DEPENDENT CHILDREN                 |
| SA/MED            | SUBSIDIZED ADOPTION MEDICAL               |
| SG/MED            | SUBSIDIZED GUARDIANSHIP MEDICAL           |
| JC                | JUVENILE COURT                            |
| SSAD              | SOCIAL SERVICES TO THE AGED AND DISABLED  |
| PAS               | PERSONAL ASSISTANCE SERVICES              |
| AD                | AID TO THE DISABLED                       |