

**CHAPTER 75-03-24**  
**EXPANDED SERVICE PAYMENTS FOR ELDERLY AND DISABLED**

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**SECTION 1:** Section 75-03-24-01 is amended as follows:

**75-03-24-01. Definitions.**

For purposes of this chapter, unless the context requires otherwise:

1. "Activities of daily living" means bathing, dressing, toileting, transferring, eating, bed mobility, medication management, and personal hygiene.
2. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].
3. "Department" means the department of human services.
4. ~~"Department's designee" means the county social service board.~~
5. ~~5.~~ "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].
6. ~~5.~~ "Ex-SPED program pool" means the list maintained by the department which contains the names of clients for whom ex-SPED program funding is available when the clients' names are transferred from the ex-SPED program pool to ex-SPED program active status.
7. ~~6.~~ "Institution" means an establishment that makes available some treatment or services beyond food or shelter to four or more individuals who are not related to the proprietor.

- ~~8.7.~~ "Instrumental activities of daily living" means activities to support independent living, including housekeeping, shopping, laundry, transportation, and meal preparation.

**History:** Effective April 1, 2012; amended effective July 1, 2020.

**General Authority:** NDCC 50-24.7-02

**Law Implemented:** NDCC 50-24.7

**SECTION 2:** Section 75-03-24-03 is amended as follows:

**75-03-24-03. Eligibility determination - Authorization of services.**

- ~~1.~~ ~~The department shall provide written notice to the department's designee of the effective date of the applicant's eligibility for services funded under the ex-SPED program.~~
- ~~2.~~ ~~The department's designee~~department is responsible for:
  - a. Verifying that the person transferred to active status continues to meet the eligibility criteria for placement into the ex-SPED program pool;
  - b. Developing a care plan;
  - c. Authorizing covered services in accordance with department policies and procedures; and
  - d. Assuring that other potential federal and third-party funding sources for similar services are sought first.
- ~~3.2.~~ An individual who is discharged from an inpatient hospital stay, skilled nursing facility, swing-bed facility, long-term care facility, or basic care facility or who has been off the ex-SPED program for fewer than 60 days, does not have to go through the ex-SPED program pool to receive services through the ex-SPED program provided the individual meets all eligibility criteria in section 75-03-24-02.

**History:** Effective April 1, 2012; amended effective July 1, 2020.

**General Authority:** NDCC 50-24.7-02

**Law Implemented:** NDCC 50-24.7

**SECTION 3:** Section 75-03-24-04 is amended as follows:

**75-03-24-04. Application.**

1. All individuals wishing to make application for benefits under this chapter

must have the opportunity to do so, without delay.

2. An application is a request made by an individual desiring benefits under this chapter, or by a proper individual seeking such benefits on behalf of another individual, to ~~a department's designee~~ the department. A proper individual means any individual of sufficient maturity and understanding to act responsibly on behalf of the applicant.
3. An application consists of an application for services, which includes a functional assessment.
4. Application forms must be signed by the applicant, an authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.
5. Information concerning eligibility requirements, available services, and the rights and responsibilities of applicants and recipients must be furnished to all who require it.
6. The date of application is the date an application, signed by an appropriate individual, is received by the ~~department's designee~~ department.

**History:** Effective April 1, 2012; amended effective July 1, 2020.

**General Authority:** NDCC 50-24.7-02

**Law Implemented:** NDCC 50-24.7

**SECTION 4:** Section 75-03-24-08 is amended as follows:

**75-03-24-08. Residency.**

For purposes of this chapter:

1. An individual is a resident of this state if the individual is not living in an out-of-state institution and is living in this state:
  - a. With intent to remain in this state permanently or for an indefinite period; or
  - b. Without intent if the individual is incapable of stating intent.
2. An individual who is a resident of this state is a resident of the ~~county~~ human service zone in which the individual is a resident for purposes of receipt of benefits under North Dakota Century Code chapter 50-01.

**History:** Effective April 1, 2012; amended effective July 1, 2020.

**General Authority:** NDCC 50-24.7-02

**Law Implemented:** NDCC 50-24.7

**SECTION 5:** Section 75-03-24-09 is amended as follows:

**75-03-24-09. Denial, reduction, and termination of services - Appeal.**

1. The department's ~~designee~~ department shall inform a person who is determined to be ineligible for covered services or who becomes ineligible while receiving services in writing of the denial, termination, or reduction, the reasons for the denial, termination, or reduction, the right to appeal, and the appeal process as provided in chapter 75-01-03.
2. A client must receive ten calendar days' written notice before termination of services occurs. The ten-day notice is not required if:
  - a. The client enters a basic care facility or a nursing facility;
  - b. The termination is due to changes in federal or state law;
  - c. The client requests termination of services;
  - d. The client moves from the service area; or
  - e. The client is deceased.
3. An applicant denied services or a client terminated from services should be given an appropriate referral to other public or private service providers and should be assisted in finding other resources.
4. ~~For denial or termination of services, a review of the decision by the county social service board director or the director's designee may be requested. A request for review does not change the time within which the request for an appeal hearing must be filed under chapter 75-01-03.~~
5. The department shall deny or terminate ex-SPED program services when service to the client presents an immediate threat to the health or safety of the client, the provider of services, or others or when services that are available are not adequate to prevent a threat to the health or safety of the client, the provider of services, or others. Examples of health and safety threats include physical abuse of the provider by the client, client self-neglect, an unsafe living environment for the client, or contraindicated practices, like smoking while using oxygen.
- 6.5. Errors made by public officials and delays caused by the actions of public officials do not create eligibility and may not form the basis for the award of any benefit to an adversely affected applicant or recipient who would not otherwise be eligible to receive that benefit.

**History:** Effective April 1, 2012; amended effective July 1, 2020.

**General Authority:** NDCC 50-24.7-02  
**Law Implemented:** NDCC 50-24.7

**SECTION 6:** Subsection 9 of section 75-03-24-10 is amended as follows:

9. The ~~department's designee~~department shall notify the client of the department's determination regarding the request to exceed the monthly service program maximum. If the department denies the request to exceed the monthly aggregate maximum, the ~~department's designee~~department shall inform the client in writing of the reason for the denial, the client's right to appeal, and the appeal process, as provided in chapter 75-01-03.

**History:** Effective April 1, 2012; amended effective July 1, 2020.  
**General Authority:** NDCC 50-24.7-02  
**Law Implemented:** NDCC 50-24.7

**SECTION 7:** Section 75-03-24-12 is amended as follows:

**75-03-24-12. Administration.**

The ~~department's designee of the county where the applicant or recipient is living~~department must be responsible for the administration of the program with respect to that applicant or recipient.

**History:** Effective April 1, 2012; amended effective July 1, 2020.  
**General Authority:** NDCC 50-24.7-02  
**Law Implemented:** NDCC 50-24.7