

MAY 22 2014

Legal Advisory Unit



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Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

May 22, 2014

Mr. John Walstad, Code Revisor  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-23 & 75-03-24  
Provision of Home and Community-Based Services Under the Service Payments  
for Elderly and Disabled Program and the Medicaid Waiver for the Aged and  
Disabled Program and Expanded Service Payments for Elderly and Disabled

Dear Mr. Walstad:

Enclosed for filing in the office of the Legislative Council is the Notice of Intent to Amend  
Administrative Rules concerning the above proposed rules as required by N.D.C.C.  
section 28-32-10. Also enclosed is a copy of the proposed rules.

We have requested publication of an abbreviated newspaper publication notice once in  
each official county newspaper which will notify the public that an oral hearing on these  
rules will be held on July 2, 2014, beginning at 10:00 a.m. and continuing until 11:30  
a.m. or until no further testimony is offered, whichever occurs first.

If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Julie Leer".

Julie Leer  
Legal Advisory Unit

JL/rs

cc: Nancy Nikolas Maier, Medical Services

Enclosures



Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

ABBREVIATED NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTERS 75-03-23 AND 75-03-24  
PROVISION OF HOME AND COMMUNITY-BASED SERVICES UNDER THE  
SERVICE PAYMENTS FOR ELDERLY AND DISABLED PROGRAM AND THE  
MEDICAID WAIVER FOR THE AGED AND DISABLED PROGRAM AND EXPANDED  
SERVICE PAYMENTS FOR ELDERLY AND DISABLED

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed changes to the N.D. Admin. Code at 10:00 a.m. on Wednesday, July 2, 2014, in Bismarck, N.D. in Room 212, located on the second floor of the Judicial Wing of the State Capitol.

Copies of the proposed rules are available for review at county social services offices and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments must be received no later than 5:00 p.m. on July 14, 2014.

ATTENTION PERSONS WITH DISABILITIES: If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the Department of Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 22nd day of May, 2014.



Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTERS 75-03-23 AND 75-03-24  
PROVISION OF HOME AND COMMUNITY-BASED SERVICES UNDER THE  
SERVICE PAYMENTS FOR ELDERLY AND DISABLED PROGRAM AND THE  
MEDICAID WAIVER FOR THE AGED AND DISABLED PROGRAM AND  
EXPANDED SERVICE PAYMENTS FOR ELDERLY AND DISABLED

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24 at 10:00 a.m. on Wednesday, July 2, 2014, in Bismarck, N.D. in Room 212, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24, Provision of Home and Community-Based Services Under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program and Expanded Service Payments for Elderly and Disabled, are necessary to comply with requirements in federal law and to implement program changes authorized under 2014 House Bill No. 1012.

The proposed changes are as follows:

**Section 75-03-23-01** is amended to remove a duplicate definition and to revise the definition of "functional assessment".

**Subsection 5 of section 75-03-23-02** is amended to clarify eligibility for services for an applicant under eighteen years of age/

**Section 75-03-23-05** is amended to allow for the provision of extended personal care services under the SPED program, to clarify what is included in extended personal care services under the SPED program, to allow for the provision of home-delivered meals to certain clients under the SPED program, to clarify what is included in homemaker services under the SPED program, to explain the homemaker services funding cap, and to clarify who may provide respite care services under the SPED program to a client who resides in an adult family foster care home.

**Section 75-03-23-06** is amended to update language consistent with other changes being made, to clarify what is included in homemaker services under the medicaid waiver program, to explain the homemaker services funding cap, to allow for the provision of supervision to clients with cognitive or physical impairment under the

medicaid waiver program, and to clarify who may provide respite care services under the medicaid waiver program to a client who resides in an adult family foster care home.

**Section 75-03-23-07** is amended to clarify application requirements for qualified service provider applicants, to add direct-bearing offenses pursuant to federal requirements, and to clarify impact of a criminal case against an applicant on the application status.

**Section 75-03-23-08** is amended to add the federal requirements re: disqualification of a qualified service provider, and conditions under which a qualified service provider's application may be denied.

**Section 75-03-23-15** is created to specify application requirements and require an applicant to prove the applicant's eligibility.

**Section 75-03-23-16** is created to identify limitations on an individual to request qualified service provider status after the individual's status has previously been terminated or denied.

**Section 75-03-23-17** is created to identify the need and use of a functional assessment.

**Section 75-03-24-07** is amended to create consistency with other changes and to allow for the provision of home-delivered meals to certain clients under the expanded SPED program.

The proposed amendments are anticipated to have an impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at county social services offices and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments on the proposed rules must be received no later than 5:00 p.m. on Monday, July 14, 2014.

**ATTENTION PERSONS WITH DISABILITIES:** If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the Department of Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 22nd day of May, 2014.



Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

May 22, 2014

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-23 and 75-03-24  
Provision of Home and Community-Based Services Under the Service Payments  
for Elderly and Disabled Program and the Medicaid Waiver for the Aged and  
Disabled Program and Expanded Service Payments for Elderly and Disabled

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24, Provision of Home and Community-Based Services Under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program and Expanded Service Payments for Elderly and Disabled. The department has adopted procedures to assure public input into the formulation of the rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on July 14, 2014.

The department has scheduled an oral hearing for July 2, 2014. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

Your participation is welcomed, as are your suggestions. Please send all written data, views, or arguments to: Rules Administrator, Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,

  
Maggie D. Anderson,  
Executive Director

MDA/rs

Attachments

cc: **John Walstad, Legislative Council**  
Nancy Nikolas Maier, Medical Services