



Doug Burgum, Governor  
Christopher Jones, Executive Director

August 14, 2018

Vonette Richter, Code Revisor  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-01-03 Appeals and Hearings and 75-08-01 Vocational Rehabilitation

Dear Ms. Richter:

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 Friday, September 21, 2018, beginning at 11:00 a.m. and continuing until 12:30 p.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, appearing to read "Jonathan Alm", is written over a light blue horizontal line.

Jonathan Alm  
Legal Advisory Unit

JA/jgl

cc: Robyn Throlson, Vocational Rehabilitation

Enclosures

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTERS 75-01-03 APPEALS AND HEARINGS AND  
75-08-01 VOCATIONAL REHABILITATION

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 75-01-03 and 75-08-01 at 11:00 a.m. on Friday, September 21, 2018, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapters 75-01-03 Appeals and Hearings and 75-08-01 Vocational Rehabilitation are necessary to incorporate language as a result of the Work Innovation and Opportunity Act and final rules, to update language, and to remove language no longer necessary for the administration of the vocational rehabilitation program.

The proposed changes are as follows:

**Section 75-01-03-02** is repealed as necessary language from this section was added to section 75-08-01-37.

**Section 75-01-03-18** is amended to remove language regarding dismissing a vocational rehabilitation appeal as necessary language was added to section 75-08-01-37.

**Section 75-01-03-21** is amended as necessary language was added to section 75-08-01-37 regarding the director of vocational rehabilitation's authority regarding appeals.

**Section 75-01-03-22** is amended as necessary language was added to section 75-08-01-37 regarding the director of vocational rehabilitation's authority regarding appeal decisions.

**Section 75-01-03-23** is amended as necessary language was added to section 75-08-01-37 regarding the director of vocational rehabilitation's authority regarding appeal decisions and notices.

**Section 75-08-01-01** is amended to add a definition of "appeal", "division", "pre-employment transition services", "student with a disability", "youth with a disability", and "youth with a most significant disability"; to remove definitions for "extended evaluation", "homemaker", "ongoing support services", and "traditional employment

services”; and to amend and update the definition of “client assistance program”, “employment outcome”, “existing data”, “individual with a disability”, “individual with a significant disability”, “qualified rehabilitation professional”, “supported employment”, and “trial work experiences”.

**75-08-01-02** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” and to clarify the verification process if an individual is not a United States citizen.

**75-08-01-03, 75-08-01-04, 75-08-01-08, 75-08-01-12, 75-08-01-13, 75-08-01-22, 75-08-01-27, and 75-08-01-31** are amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” or “division”.

**75-08-01-07** is repealed as the necessary language was added to section 75-08-01-37.

**75-08-01-09** is amended to clarify language and to create consistency in terms used throughout the chapter by changing the word “representative” to “authorized representative”.

**75-08-01-11 and 75-08-01-15** are amended to clarify language and to create consistency in terms used throughout the chapter by changing the word “representative” to “authorized representative” and replacing “vocational rehabilitation” with “the division”.

**75-08-01-14** is repealed as the necessary language was added to section 75-08-01-37.

**75-08-01-16** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” or “division” and to remove the “an extended evaluation is necessary” exception to the time period to determine eligibility.

**75-08-01-17** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” or “division”.

**75-08-01-18** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” or “division” and to add “advance in” for vocational rehabilitation eligibility and documentation requirements.

**75-08-01-20** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” and to remove language that provided for extended evaluation services where an individual was not able to obtain trial work experiences.

**75-08-01-21** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” and to update a citation.

**75-08-01-23** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division”; to reflect changes made in section 75-08-01-37 relating to mediation and the client assistance program; and to add additional categories of individuals in a priority list of who is entitled to receive services under an individualized plan for employment.

**75-08-01-24** is amended to clarify language and to create consistency in terms used throughout the chapter by changing the word “representative” to “authorized representative” and replacing “vocational rehabilitation” with “the division”; to change the time period for when an individualized plan for eligible individuals must be developed; to update a citation; and to extend the maximum period “time-limited services” may be provided from eighteen to twenty-four months.

**75-08-01-25** is amended to update and create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” and “followup” with “follow-up”.

**75-08-01-26** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division”; to update language regarding needs test, fee scale and financial participation; and to update a citation.

**75-08-01-28** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” and to update language regarding financial participation.

**75-08-01-29** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” and to extend the maximum period “time-limited services” may be provided from eighteen to twenty-four months.

**75-08-01-30** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division” and to clarify

that an individual may choose to participate in the cost attendance postsecondary training through the use of college work study and student loans.

**75-08-01-32 and 75-08-01-33** are amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division”; to replace “due process procedures” with “informal review”; to clarify written notification requirements; and to change the individual with whom an appeal may be filed from the appeals supervisor to the chief of field services of the division.

**75-08-01-34** is amended to create consistency in terms used throughout the chapter by replacing “vocational rehabilitation” with “the division”; to replace “due process procedures” with “informal review”; to change the individual with whom an appeal may be filed from the appeals supervisor to the chief of field services of the division; to remove language relating to the determination of rehabilitation of an individual in supported employment when an individual is stabilized for a minimum of sixty days; to extend the period for which an individual in supported employment must maintain employment after transition to extended services to be determined rehabilitated from sixty to ninety days; to remove a requirement that an individual earning less than minimum wage is subject to an annual review upon closure; and to remove language regarding closing an individual’s case while working in a temporary transitional employment placement.

**75-08-01-35** is amended to remove language regarding procedures to be used when an individual in extended employment has their case closed and to add language requiring division to review, document, and assess the employment outcomes of certain individuals as they attempt to obtain employment at or above the federal minimum wage.

**75-08-01-36** is created to detail the pre-employment transition services the division must provide or make available.

**75-08-01-37** is created to describe a claimant’s right to receive notices; mediation rights and process; appeal rights and process; reasonable accommodation; informal review rights and process; and claimant’s right to continue to receive services pending resolution of claimant’s appeal.

The proposed amendments are not 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, October 1, 2018.

**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 14th day of August, 2018.





**Legal Advisory Unit**

(701) 328-2311  
Fax (701) 328-2173  
Toll Free (800) 472-2622  
Relay ND TTY (800) 366-6888

Doug Burgum, Governor  
Christopher Jones, Executive Director

August 14, 2018

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-01-03 Appeals and Hearings and 75-08-01 Vocational Rehabilitation

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapters 75-01-03 Appeals and Hearings and 75-08-01 Vocational Rehabilitation. 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 Monday, October 1, 2018.

The department has scheduled an oral hearing for Friday, September 21, 2018. 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,

A handwritten signature in black ink, appearing to be "C. Jones", written over a white background.

Christopher Jones,  
Executive Director

CDJ/jgl

Enclosures

cc: Vonette Richter, Legislative Council  
Robyn Throlson, Vocational Rehabilitation