



OCT 23 2017
Legal Advisory Unit

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Doug Burgum, Governor
Christopher Jones, Executive Director

October 23, 2017

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

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-02-02
Medical Services

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 December 6, 2017, beginning at 1:00 p.m. and continuing until 2:30 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 blue ink scribble.

Jonathan Alm
Legal Advisory Unit

JA/jgl

cc: Maggie Anderson, Medical Services

Enclosures

Doug Burgum, Governor
Christopher Jones, Executive Director

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-02-02
MEDICAL SERVICES

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 75-02-02 at 1:00 p.m. on Wednesday, December 6, 2017, 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 chapter 75-02-02, Medical Services, are necessary to comply with an appropriations measure passed during the 2017 legislative session, as directed by House Bill No. 1012, and the requirements of House Bill 1120.

The proposed changes are as follows:

Section 75-02-02-03.2 is amended to update language for consistency purposes and to add definitions of “exercise program”, “Indian health services or tribal health facility or clinic”, and “weight loss program”.

Section 75-02-02-08 is amended to update language for consistency purposes, to comply with federal rule changes, to clarify language related to early and periodic screening, diagnosis and treatment, hospice care, durable medical equipment and supplies, private duty nursing services, and home health care services, to remove the definition of “exercise program” and “weight loss program” as the definitions were moved to section 75-02-02-03.2, to update and clarify prior authorization and provider agreement provisions, and to update the pharmacy services to levels approved in medicaid state plan.

Section 75-02-02-09.1 is amended to update when copayments are or are not imposed.

Section 75-02-02-09.3 is amended to update language for consistency purposes.

Section 75-02-02-09.4 is amended to clarify language and to increase the limitation on behavior health services from four units per calendar year to ten units per calendar year.

Section 75-02-02-09.5 is amended to ensure compliance with the fair labor standards act home care rule and electronic visit verification

efforts and to allow for the use of a daily rate, if needed, to facilitate client choice and least restrictive environment.

Section 75-02-02-10 is amended to update language for consistency purposes, to rename the section, to combine language from section 75-02-02-10.1 as both sections address psychiatric services for individuals under age twenty-one, and to establish a payment criteria for a non-psychiatric residential treatment facility.

Section 75-02-02-10.1 is amended to update language for consistency purposes, to rename the section, and to insert the payment limitations for inpatient psychiatric services which was removed from subsection 4 of section 75-02-02-10.

Section 75-02-02-10.2 is amended to update language for consistency purposes, to tie in the behavior health division's licensing rules for treatment of addiction, and to allow licensed addiction counselors practicing within a recognized Indian reservation to submit certain services to medicaid for reimbursement without the need to be licensed under chapter 75-09.1.

Section 75-02-02-10.3 is created to establish limitations on partial hospitalization psychiatric services and to eliminate confusion between the difference of partial hospitalization psychiatric services and substance use disorder treatment.

Section 75-02-02-11 is amended to update language for consistency purposes and to update the coordinated services requirements for individuals who misutilize services.

Section 75-02-02-12 is amended to clarify the division's role as it relates to medicaid payment for services and removes language regarding how services should be provided in the emergency room.

Section 75-02-02-13 is amended to update language for consistency purposes and to update and clarify the referral process for out of state care to account for recipients who do not have a primary care provider.

Section 75-02-02-13.1 is amended to update language for consistency purposes, to clarify when foster parents may enroll to provide non-emergency medical transportation, and to remove limitations for county agencies and to allow them to bill non-emergency medical transportation.

Section 75-02-02-13.2 is amended to update language for consistency purposes between article 75-04 and chapter 75-02-02.

Section 75-02-02-27 is amended to remove duplicative language and incorporate rules relating to 2017 House Bill No. 1120.

Section 75-02-02-29 is amended to update language for consistency purposes, to update language to clarify when the department may make payments for services that would otherwise require a primary care provider referral, and to update language in section 5 based on changes made to sections 75-02-02-10.2 and 75-02-02-10.3.

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, December 18, 2017.

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 23rd day of October, 2017.



Doug Burgum, Governor
Christopher Jones, Executive Director

October 23, 2017

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-02-02
Medical Services

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-02-02, Medical Services. 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 December 18, 2017.

The department has scheduled an oral hearing for December 6, 2017. 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 read "Chris Jones", is written over a light blue horizontal line.

Christopher Jones,
Executive Director

CDJ/jgl

Enclosures

cc: Vonette Richter, Legislative Council
Maggie Anderson, Medical Services