

NOV 03 2017

Legal Advisory Unit



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Doug Burgum, Governor
Christopher Jones, Executive Director

November 3, 2017

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

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-02-02.1
Eligibility for Medicaid

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 11, 2017, beginning at 2:30 p.m. and continuing until 4:00 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,



Jonathan Alm
Legal Advisory Unit

JA/jgl

cc: Michele Gee, Economic Assistance

Enclosures



Doug Burgum, Governor
Christopher Jones, Executive Director

November 3, 2017

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-02-02.1
Eligibility for Medicaid

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-02-02.1, Eligibility for Medicaid. 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 21, 2017.

The department has scheduled an oral hearing for December 11, 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 the word "Sincerely,".

Christopher Jones,
Executive Director

CDJ/jgl

Enclosures

cc: Vonette Richter, Legislative Council
Michele Gee, Economic Assistance

Doug Burgum, Governor
Christopher Jones, Executive Director

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-02-02.1
ELIGIBILITY FOR MEDICAID

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 75-02-02.1 at 2:30 p.m. on Monday, December 11, 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 75-02-02.1, Eligibility for Medicaid, are necessary to comply with provisions of the Affordable Care Act due and based on guidance received from Centers for Medicare and Medicaid.

The proposed changes are as follows:

Subsection 3 of section 75-02-02.1-05 is amended to increase the medically needy coverage group from under the age of nineteen to under the age of twenty-one.

Section 75-02-02.1-14.1 is amended to provide clarification as to how an individual can be found medically frail and amends who may qualify.

Section 75-02-2.1-17 is amended to expand when good cause can be granted if applicants and recipients are unable to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled.

Section 75-02-02.1-20 is amended to add employment criteria for individuals to be eligible for transitional medicaid benefits if they are ineligible under parent and caretaker relative group and to update rules for consistency purposes with current policy and Affordable Care Act.

Section 75-02-02.1-28 is amended to remove restriction regarding use of the motor vehicle and to add charitable gift annuity to the list of excluded assets.

Subsection 2 of section 75-02-02.1-28.1 is amended to update a citation reference.

Subsection 4 of section 75-02-02.1-31.1 is amended to allow an individual who is under the age of sixty-five and disabled to establish a special needs trust for the benefit of the individual.

Subsection 6 of section 75-02-02.1-32 is amended to allow the department to determine that a debtor is judgment proof without the applicant or recipient securing a money judgment against the debtor.

Section 75-02-02.1-33.1 is amended to allow the department to accept partial returns of transferred asset or income to reduce the disqualifying transfer, to add motor vehicle to the list of assets excluded for medicaid purposes, to add language to allow for other evidence to be presented if absence of a valid written contract for services or assistance furnished by the transferee, to remove the difference between the fair market value of transactions between someone in or not in a confidential relationship, to remove the implied trust presumption based on a transaction involving an individual in a confidential relationship based on Centers for Medicare and Medicaid guidance, to change the frequency that an annuity can be paid out, and to reconcile the language regarding annuities with state law and federal requirements.

Section 75-02-02.1-33.2 is amended to allow the department to accept partial returns of transferred asset or income to reduce the disqualifying transfer, to add motor vehicle to the list of assets excluded for medicaid purposes, to replace "lawful" with "reasonable", to remove a requirement for undue hardship due to a Centers for Medicare and Medicaid requirement, to add language to clarify remaining available assets when applying for hardship, to add language to allow for other evidence to be presented if absence of a valid written contract for services or assistance furnished by the transferee, to remove the difference between the fair market value of transactions between someone in or not in a confidential relationship, to remove the implied trust presumption based on a transaction involving an individual in a confidential relationship based on Centers for Medicare and Medicaid guidance, to change the frequency that an annuity can be paid out, and to reconcile the language regarding annuities with state law and federal requirements.

Section 75-02-02.1-41.2 is amended to add a new subsection regarding budgeting procedures when determining overpayments to support the Affordable Care Act appeals cases.

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 Thursday, December 21, 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 3rd day of November, 2017.