



**Legal Advisory Unit**

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Doug Burgum, Governor  
Christopher Jones, Executive Director

November 8, 2017

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

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-01-03  
Appeals and Hearings

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 15, 2017, 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, appearing to read "Jonathan Alm", is written over the word "Sincerely,".

Jonathan Alm  
Legal Advisory Unit

JA/jgl

cc: Stephanie Waloch, Medical Services

Enclosures



Doug Burgum, Governor  
Christopher Jones, Executive Director

November 8, 2017

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-01-03  
Appeals and Hearings

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-01-03, Appeals and Hearings. 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 26, 2017.

The department has scheduled an oral hearing for December 15, 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 that reads "Tom Solberg Deputy, for". The signature is written in a cursive, flowing style.

Christopher Jones,  
Executive Director

CDJ/jgl

Enclosures

cc: Vonette Richter, Legislative Council  
Stephanie Waloch, Medical Services

Doug Burgum, Governor  
Christopher Jones, Executive Director

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

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 75-01-03 at 10:00 a.m. on Friday, December 15, 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 75-01-03, Appeals and Hearings, are necessary to comply with federal regulations regarding managed care organizations; notices, fair hearing and appeal processes; and intentional program violations.

The proposed changes are as follows:

**Section 75-01-03-01** is amended to add definitions of “adverse benefit determinations” and “developmental disability provider”, to update citations, to clarify and update language for consistency purposes, including names and titles of benefits or services, to update the various ways an individual may file or request an appeal, and to update language of “intentional program violations” to comply with federal requirements and guidance.

**Section 75-01-03-03** is amended to update names and titles of benefits or services, to add an opportunity for a fair hearing for medicaid benefits administered through a managed care organization and autism voucher, and to update language for consistency purposes regarding personal representatives.

**Section 75-01-03-03.2** is amended to add appeals rights for a developmental disability provider regarding a ratesetting decision, update “unit” to “division” language for consistency purposes, and to clarify and update the methods of how an individual may perfect an appeal.

**Section 75-01-03-04** is amended to clarify and update the methods of how an individual may withdraw an appeal before a decision is made.

**Section 75-01-03-05** is amended to clarify and update an individual’s responsibility and the methods of how an individual may appeal and to add who must receive the appeal.

**Section 75-01-03-06** is amended to update “food stamps” to “supplemental nutrition assistance program” for consistency purposes, to update citations, and to create a time limit for appeals involving managed care organizations and autism voucher.

**Section 75-01-03-07** is amended to update “aid to families with dependent children” to “temporary assistance for needy families” language for consistency purposes and to remove “annual” from preadmission screening and resident review requirements.

**Section 75-01-03-08** is amended to update and clarify when adequate notice is or is not required for benefits or services offered by the department and to update language for consistency purposes regarding program or benefit names or titles.

**Section 75-01-03-08.3** is amended to update language regarding authorized representatives and “food stamps” to “supplemental nutrition assistance program” for consistency purposes

**Section 75-01-03-09** is amended to update language to reflect that certain benefit or service appeals are appealed to the department and do not involve a county agency and to update language from “food stamps” to “supplemental nutrition assistance program” for consistency purposes.

**Section 75-01-03-09.2** is amended to update “unit” to “division” for consistency purposes and to remove the requirement that a representative must have authority to make binding agreements.

**Section 75-01-03-09.3** is amended to update “unit” to “division” for consistency purposes and to remove the requirement that a representative must have authority to make binding agreements.

**Section 75-01-03-13** is amended to update “unit” to “division” for consistency purposes.

**Section 75-01-03-14** is amended to update “unit” to “division”, “food stamps” to “supplemental nutrition assistance program”, and “aid to families with dependent children” to “temporary assistance for needy families” for consistency purposes.

**Section 75-01-03-15** is amended to update language regarding authorized representatives, “unit” to “division”, and “food stamps” to

“supplemental nutrition assistance program” and to establish the ability to conduct hearings by other acceptable electronic means.

**Section 75-01-03-16** is amended to update language for consistency purposes regarding program or benefit names or titles, update language regarding authorized representatives, and the ability to conduct hearings by other acceptable electronic means.

**Section 75-01-03-18** is amended to remove “from” to clarify language.

**Section 75-01-03-20** is amended to update “provided agreement” to “provider agreement”, to update a citation, and to change when the time period to appeal starts.

**Section 75-01-03-23** is amended to update language from “unit” to “division”.

**Section 75-01-03-24** is amended to update language from “food stamps” to “supplemental nutrition assistance program”.

**Section 75-01-03-26** is created to establish the appeals supervisor’s address.

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 Tuesday, December 26, 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 8th day of November, 2017.