



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

December 31, 2013

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

RE: Emergency Rule Making for Proposed Amendments to N.D. Admin. Code
Chapters 75-02-02.1 and 75-02-02.2 – Eligibility for Medicaid and Children's
Health Insurance Program

Dear Mr. Walstad:

Attached for filing in the office of the Legislative Council are the following:

1. Notice of Intent to Amend Administrative Rules concerning the above proposed rules as required by N.D.C.C. § 28-32-02;
2. Finding and Statement of reason of Maggie D. Anderson, Executive Director of the North Dakota Department of Human Services, with respect to the declaration of the proposed amendments to N.D.A.C. Chapters 75-02-02.1 and 75-02-02.2;
3. Interim final rules effective January 1, 2014; and
4. The December 19, 2013, letter from Governor Dalrymple approving the request for emergency rulemaking.

Ms. Anderson has declared that the proposed amendments require emergency rulemaking. Accordingly, Ms. Anderson has declared these proposed amendments to be interim final rules effective January 1, 2014.

The department has determined that appropriate measures to make the proposed interim final rules known to every person who may be affected by them consist of mailing a copy of the proposed rules to each county social service board office, to each regional human service center, and to persons or entities who have expressed an interest in receiving notice of such rulemaking; furnishing this notice to the Legislative Council; and publishing notice of the proposed rulemaking once in each county newspaper of general circulation published in the state of North Dakota.

Mr. John Walstad, Code Revisor
Emergency Rule Making for Proposed Amendments
December 31, 2013
Page 2

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". The signature is written in a cursive style with a large initial "J" and "L".

Julie Leer
Legal Advisory Unit

JL/rs

cc: Deb Masad, Medical Services
Cindy Sheldon, Medical Services



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

ABBREVIATED NOTICE OF INTENT TO AMEND AND CREATE
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTERS 75-02-02.1 AND 75-02-02.2
ELIGIBILITY FOR MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM

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 chapters 75-02-02.1 and 75-02-02.2 at 10:00 a.m. on Friday, February 7, 2014, in Bismarck, N.D. in Room 212, located on the second floor of the Judicial Wing of the State Capitol. The proposed changes are effective January 1, 2014, as interim final rules under North Dakota Century Code Section 28-32-03(2)(d); the rules are required to meet a mandate of federal law.

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 February 18, 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 31st day of December, 2013.

Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

NOTICE OF INTENT TO AMEND AND CREATE
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTERS 75-02-02.1 AND 75-02-02.2
ELIGIBILITY FOR MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM

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 75-02-02.1 and 75-02-02.2 at 10:00 a.m. on Friday, February 7, 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 75-02-02.1 and 75-02-02.2, Eligibility for Medicaid and Children's Health Insurance Program, are necessary to comply with the provisions of the Patient Protection and Affordable Care Act. The proposed changes are effective January 1, 2014, as interim final rules under North Dakota Century Code Section 28-32-03(2)(d); the rules are required to meet a mandate of federal law.

The proposed changes are as follows:

Section 75-02-02.1-01 is amended to add the definition of MAGI-based methodology for Medicaid.

Section 75-02-02.1-05 is amended to identify changes in coverage groups eligible for coverage under the Medicaid expansion.

Section 75-02-02.1-08 is amended to identify what constitutes a Medicaid unit for individuals subject to a MAGI-based methodology and what members are included as part of a Medicaid household.

Section 75-02-02.1-08.1 is amended to remove language that is inconsistent with Medicaid expansion requirements.

Section 75-02-02.1-12 is amended to remove language that is inconsistent with Medicaid expansion requirements.

Section 75-02-02.1-14.1 is created to address eligibility for medically frail Medicaid expansion enrollees.

Section 75-02-02.1-16 is amended to address residency requirements for the Medicaid expansion population.

Section 75-02-02.1-18 is amended to revise language on provision of emergency services to make it consistent with Medicaid expansion requirements.

Section 75-02-02.1-19.1 is amended to update the family coverage section with the coverage requirements for the parents and caretaker relatives group.

Section 75-02-02.1-20 is amended to update transitional and extended Medicaid benefits to include the changes to Section 75-02-02.1-19.1 and to remove child support income from the requirements.

Section 75-02-02.1-34 is amended to update income considerations to reflect MAGI-based methodologies for determining income eligibility for Medicaid.

Section 75-02-02.1-34.1 is created to add MAGI-based methodology for determining income eligibility for Medicaid.

Section 75-02-02.1-37 is amended to clarify the application of this section on unearned income to individuals not subject to a MAGI-based methodology.

Section 75-02-02.1-37.1 is created to address unearned income requirements for individuals subject to a MAGI-based methodology.

Section 75-02-02.1-38 is amended to clarify the application of this section on earned income to individuals not subject to a MAGI-based methodology.

Section 75-02-02.1-38.2 is amended to clarify the application of this section on disregarded income to individuals not subject to a MAGI-based methodology.

Section 75-02-02.1-38.3 is created to address disregarded income requirements for certain individuals subject to a MAGI-based methodology.

Section 75-02-02.1-38.4 is created is address earned income requirements for individuals subject to a MAGI-based methodology.

Section 75-02-02.1-39 is amended to clarify the application of this section on income deductions to individuals not subject to a MAGI-based methodology.

Section 75-02-02.1-39.1 is created to address income deductions for individuals subject to a MAGI-based methodology.

Section 75-02-02.1-40 is amended to update poverty income level percentages and to remove language that is inconsistent with Medicaid expansion requirements.

Section 75-02-02.1-41.1 is amended to reflect deductions applicable to the calculation of recipient liability.

Section 75-02-02.1-41.2 is amended to address the addition of certain individuals to an eligible Medicaid unit.

Section 75-02-02.2-01 is amended to redefine household member and to add the definition of MAGI-based methodology for the children's health insurance program.

Section 75-02-02.2-06.1 is amended to clarify the application of this section on a children's health insurance program unit to applications and reviews prior to January 1, 2014.

Section 75-02-02.2-06.2 is created to identify a children's health insurance program MAGI-based methodology household unit.

Section 75-02-02.2-10 is amended to address additional eligibility criteria.

Section 75-02-02.2-12 is amended to clarify the application of this section on income considerations to applications and reviews prior to January 1, 2014.

Section 75-02-02.2-12.1 is created to address income considerations under a MAGI-based methodology for the children's health insurance program.

Section 75-02-02.2-12.2 is created to address a MAGI-based methodology for the children's health insurance program.

Section 75-02-02.2-13 is amended to update the calculation of self-employment income in determining household income for the children's health insurance program.

Section 75-02-02.2-13.1 is amended to clarify the application of this section on income deductions to applications and reviews prior to January 1, 2014.

Section 75-02-02.2-13.2 is amended to address the treatment of excess income of a spouse or parent in determining eligibility for the children's health insurance 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 February 18, 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 31st day of December, 2013.



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

**FINDING AND STATEMENT OF REASON
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
REGARDING PROPOSED AMENDMENTS TO
NORTH DAKOTA ADMINISTRATIVE CODE CHAPTERS 75-02-02.1 AND 75-02-02.2
ELIGIBILITY FOR MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM**

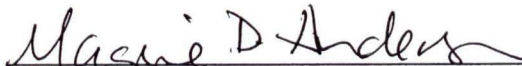
FINDING

I find that emergency rulemaking to amend N.D. Admin. Code chapters 75-02-02.1 and 75-02-02.2, Eligibility for Medicaid and Children's Health Insurance Program, is necessary to meet a mandate in federal law.

STATEMENT OF REASON

Emergency rulemaking is necessary to comply with the eligibility provisions of the Patient Protection and Affordable Care Act.

Dated this 20th day of December, 2013.


Maggie D Anderson
Executive Director



— State of —
North Dakota
Office of the Governor

Jack Dalrymple
Governor

December 19, 2013

Maggie Anderson
Department of Human Services
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Maggie,

On December 19, 2013, I received your request for approval of emergency rulemaking to amend North Dakota Administrative Code Chapter 75-02-02.1 relating to Eligibility for Medicaid and Chapter 75-02-02.2 relating to the Children's Health Insurance Program.

I have reviewed the request pursuant to N.D.C.C. § 28-32-03 and I find that an emergency rulemaking is reasonably necessary to meet a mandate of federal law. I therefore approve adoption of your proposed rules as interim final rules.

Sincerely,

A handwritten signature in cursive script that reads "Jack Dalrymple".

Jack Dalrymple
Governor

37:74: 58



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

December 31, 2013

Mr. Representative Bill Devlin
North Dakota Legislative Assembly
Chairman of the Administrative Rules Committee
PO Box 505
Finley, ND 58230-0505

RE: Department of Human Services Emergency Rulemaking

Dear Representative Devlin:

Subsection 5 of section 28-32-03 of the North Dakota Century Code requires an agency to provide notice to the Chairman of the Administrative Rules Committee of the emergency status, declared effective date, and grounds for emergency status of emergency rules proposed by the agency.

The Department of Human Services is proposing emergency rules to take effect on January 1, 2014 to address the eligibility provisions of the Patient Protection and Affordable Care Act, including implementation of the modified adjusted gross income-based methodology for the Medicaid and Children's Health Insurance Programs, including the Medicaid Expansion. The Department has been awaiting guidance from the Centers for Medicare and Medicaid Services on the details of implementing modified adjusted gross income and on requirements for the Medicaid Expansion. To meet the January 1, 2014, effective date for the provisions of the Patient Protection and Affordable Care Act emergency rulemaking is necessary. The grounds for emergency status is that emergency rulemaking is necessary to meet a mandate of federal law, i.e., implementation of the modified adjusted gross income-based methodology for determining eligibility. The guidance received from the Centers for Medicare and Medicaid Services on the requirements for the Medicaid Expansion are also needed for the implementation of section 1 of 2013 House Bill No. 1362.

Sincerely,

A handwritten signature in black ink that reads "Maggie D. Anderson".

Maggie D. Anderson
Executive Director

cc: John Walstad, Legislative Council



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

December 31, 2013

RE: Interim Final Rules Effective January 1, 2014
N.D. Admin. Code Chapters 75-02-02.1 and 75-02-02.2
Eligibility for Medicaid and Children's Health Insurance Program

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing interim final rules effective January 1, 2014 regarding N.D. Admin. Code chapters 75-02-02.1 and 75-02-02.2, Eligibility for Medicaid and Children's Health Insurance Program. The department has adopted procedures to assure public input into the formulation of such rules prior to their final adoption.

In conformity with those procedures, we are providing you with a copy of the interim final rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on February 18, 2014.

The department has scheduled an oral hearing on February 7, 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,

A handwritten signature in black ink that reads "Maggie D. Anderson". The signature is fluid and cursive, with the first name being the most prominent.

Maggie D. Anderson,
Executive Director

MDA/rs

Attachments

Cc: John Walstad, Legislative Council
Deb Masad, Medical Services
Cindy Sheldon, Medical Services