

May 2, 2022

Jill Grossman, Counsel
North Dakota Legislative Council
State Capitol
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code chapter 75-03-23
Provision of Home and Community-Based Services Under the Service Payments
for Elderly and Disabled Program and the Medicaid Waiver for the Aged and
Disabled Program

Dear Ms. Grossman:

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, June 10, 2022, 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/rv

cc: Jessica Thomasson, Executive Policy Director
Nancy Nikolas-Maier, Aging Services
Corey Kjos, Medical Services

Enclosures

LEGAL ADVISORY UNIT

600 E Boulevard Ave Dept 325 | Bismarck ND 58505-0250

701.328.2311 | Fax 701.328.2173 | 800.472.2622 | 711 (TTY) | www.nd.gov/dhs

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-03-23
PROVISION OF HOME AND COMMUNITY-BASED SERVICES UNDER THE
SERVICE PAYMENTS FOR ELDERLY AND DISABLED PROGRAM AND THE
MEDICAID WAIVER FOR THE AGED AND DISABLED 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 chapter 75-03-23 at 2:30 p.m. on Friday, June 10, 2022, 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 75-03-23, Provision of Home and Community-Based Services Under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program are as follows:

Subsection 2 of section 75-03-23-07 is amended to remove an administrative requirement regarding child abuse or neglect confirmed decisions; to allow for the revalidation of enrollment status and competency timeframe to be extended for qualified service providers to match the timeframe for revalidation of enrollment status and provider competency outlined in the Medicaid state plan option for person care services or Medicaid waiver program and up to the timeframe currently allowed in federal regulations; to amend the revalidation of family home care provider status covered under the service payments for elderly and disabled program or the expanded service payments for elderly and disabled program from every twenty-four months to every sixty months; and to clarify that qualified service providers are either contracted with or hired as an independent contractor by the individual receiving the services and are not hired by the department.

Section 75-03-23-08 is amended to remove language regarding the department's ability to deny an application solely based on a child abuse and neglect confirmed decision.

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Subsection 4 of section 75-03-23-08.1 is amended to remove language regarding the department's ability to terminate a qualified service provider solely based on a child abuse and neglect confirmed decision.

Section 75-03-23-09 is amended to allow the department to grant a variance to the three months extension and one-time additional extension to exceed the monthly service payments for elderly and disabled program service cap if a written application showing good cause is provided to the department and the variance does not endanger the health or safety of the client.

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 human service zones 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, June 20, 2022.

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 2nd day of May, 2022.

May 2, 2022

RE: Proposed amendments to N.D. Admin. Code chapter 75-03-23
Provision of Home and Community-Based Services Under the Service Payments
for Elderly and Disabled Program and the Medicaid Waiver for the Aged and
Disabled Program

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-03-23, Provision of Home and Community-Based Services Under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program. 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, June 20, 2022.

The department has scheduled an oral hearing for Friday, June 10, 2022. 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,



Christopher Jones,
Executive Director

CDJ/rv

Enclosures

cc: Jill Grossman, Legislative Council
Jessica Thomasson, Executive Policy Director
Nancy Nikolas-Maier, Aging Services
Corey Kjos, Medical Services

EXECUTIVE OFFICE

GOVERNOR
Doug Burgum

EXECUTIVE DIRECTOR
Christopher Jones