

April 26, 2022

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

RE: Proposed Amendments to N.D. Admin. Code chapter 75-02-06  
Ratesetting for Nursing Home Care

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 Monday, June 13, 2022, beginning at 2:00 p.m. and continuing until 3:30 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,



Jonathan Alm  
Legal Advisory Unit

JA/rv

cc: Caprice Knapp, Medical Services  
LeeAnn Thiel, Medical Services

Enclosures

**LEGAL ADVISORY UNIT**

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTER 75-02-06  
RATESETTING FOR NURSING HOME CARE

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 75-02-06 at 2:00 p.m. on Monday, June 13, 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 75-02-06, regarding Ratesetting for Nursing Home Care, are being made to comply with 2021 House Bill No. 1012 and 2021 House Bill No. 1090.

The proposed changes are as follows:

**Section 75-02-06-01** is amended to create definitions for “fair rental value”, “fair rental value rate”, and “passthrough costs”. The section also amends the definition of “property costs”.

**Subsection 7 of section 75-02-06-03** is amended to provide that a per bed cost limitation applies to construction or renovation projects currently in process or which have approved financing in place on or before December 31, 2021.

**Section 75-02-06-16** is amended to revise the process for making a rate determination for cost. The section provides the process for determining other direct cost, indirect costs, passthrough costs, and property rate. The section provides that an adjustment factor may not be used to adjust passthrough costs and the fair rental value. The section revises the process for determining rates for a facility changing ownership during the rate period. The section establishes a rate calculation process for new facilities placed into service prior to December 31, 2022, and for facilities placed into service after that date. The section also provides that for a projected property rate in place prior to January 1, 2023, at such time as the twelve months of property costs are reflected in the report year, the difference between a projected property rate and the property rate that would otherwise be established based on historical costs must be determined.

**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](http://www.nd.gov/dhs)

**Section 75-02-06-16.3** is amended to revise the process for calculating a rate determination for price. The section provides the process for determining other direct costs, indirect care costs, passthrough costs, and property rate. The section is amended to provide factors that must be considered in calculating the fair rental value rate. The section provides that the rate established for passthrough for a previous owner must be retained through the end of the rate period. The section revises the process for determining rates for a facility changing ownership during the rate period. The section establishes separate rate calculation processes for new facilities placed into service prior to December 31, 2022, and for facilities placed into service after that date. The section also adds new language detailing the process to determinate a fair rental value for a facility with a major renovation of at least \$15,000 per licensed bed.

**Section 75-02-06-24** is amended to update citations referring to section 75-02-06-16.3.

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 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 Thursday, June 23, 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 26th day of April, 2022.

April 26, 2022

RE: Proposed amendments to N.D. Admin. Code chapter 75-02-06  
Ratesetting for Nursing Home Care

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-02-06, Ratesetting for Nursing Home Care. 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 Thursday, June 23, 2022.

The department has scheduled an oral hearing for Monday, June 13, 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  
Caprice Knapp, Medical Services  
LeeAnn Thiel, Medical Services

**EXECUTIVE OFFICE**

GOVERNOR  
Doug Burgum

EXECUTIVE DIRECTOR  
Christopher Jones