

July 26, 2021

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

RE: Proposed Amendments to N.D. Admin. Code chapters 75-03-38 and 75-03-39
Autism Spectrum Disorder Voucher Program and Autism Services Waiver

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 Tuesday, September 7, 2021, 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: Caprice Knapp, Medical Services
Krista Fremming, Medical Services
Katherine Barchenger, Medical Services
Jodi Hulm, Medical Services

Enclosures

LEGAL ADVISORY UNIT

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTERS 75-03-38 AND 75-03-39,
AUTISM SPECTRUM DISORDER VOUCHER PROGRAM AND AUTISM SERVICES
WAIVER

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 75-03-38 and 75-03-39 at 2:30 p.m. on Tuesday, September 7, 2021, 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 chapters 75-03-38 and 75-03-39, regarding the Autism Spectrum Disorder Voucher Program and Autism Services Waiver, are necessary to implement 2021 Senate Bills No. 2085 and 2089.

The proposed changes are as follows:

Section 75-03-38-01 is amended to provide a definition of “federal poverty level”.

Section 75-03-38-02 is amended to provide that one of the conditions that must be met before a parent, custodian, or legal guardian may apply to participate in the voucher program is that the child’s support need cannot be obtained through insurance or through other service systems, including educational and behavioral systems, and the federal Medicaid 1915(i) state plan amendment, to remove the six months residency requirement, and to update a citation.

Section 75-03-38-03 is amended to remove the requirement that an applicant for the autism spectrum voucher program must provide verification of North Dakota residency for at least six months, and also updates the requirement to provide signed releases of information only when necessary.

Section 75-03-38-04 is amended to provide for voucher support for a child with an autism spectrum diagnosis of up to \$7,500 per fiscal year in response to 2021 Senate Bill No. 2089. The section is also amended to update language and require the division to issue an autism voucher purchase form, instead of a voucher request form. The amended language also provides that for an item or service not included on the pre-approved list, a description of the item or service requested must be provided by a provider who is working with the eligible child and must state how the item

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or service will compensate for a deficit created by an autism spectrum disorder. The section is also amended to provide that if a voucher is not used for thirty consecutive calendar days, the division shall inform the parent, custodian, or legal guardian that, if an additional thirty days pass without a voucher request or request for item or service, the voucher will be terminated in response to 2021 Senate Bill No. 2089. The section is also amended to provide that voucher funds may not be used for: housing or house maintenance; general entertainment, consumer electronics for every use, or recreation that benefits the entire family; household items; food; telephone or telecommunications; vehicles; clothing, personal goods, or personal treatments such as toiletries or cosmetics; and vacations.

Section 75-03-39-01 is amended to change the citations for General Authority and Law Implemented.

Section 75-03-39-02 is amended to extend eligibility for services under the Medicaid autism spectrum waiver through age fifteen, in response to 2021 Senate Bill No. 2085, and clarify that the child needs to meet the institutional level of care required by the centers for Medicare and Medicaid services.

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 Friday, September 17, 2021.

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 July, 2021.

July 26, 2021

RE: Proposed amendments to N.D. Admin. Code chapters 75-03-38 and 75-03-39
Autism Spectrum Disorder Voucher Program and Autism Services Waiver

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapters 75-03-38 and 75-03-39, Autism Spectrum Disorder Voucher Program and Autism Services Waiver. 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 Friday, September 17, 2021.

The department has scheduled an oral hearing for Tuesday, September 7, 2021. 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
Krista Fremming, Medical Services
Katherine Barchenger, Medical Services
Jodi Hulm, Medical Services

EXECUTIVE OFFICE

GOVERNOR
Doug Burgum

EXECUTIVE DIRECTOR
Christopher Jones