

OCT 30 2015

Legal Advisory Unit



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Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

October 30, 2015

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

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-02-02 and 75-02-02.1
Medical Services and Eligibility for Medicaid

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 7, 2015, 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 that reads "Julie Leer".

Julie Leer
Legal Advisory Unit

JL/rs

cc: Erik Elkins, Medical Services

Enclosures

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTERS 75-02-02 AND 75-02-02.1
MEDICAL SERVICES AND ELIGIBILITY OF MEDICAID

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 and 75-02-02.1 at 10:00 a.m. on Monday, December 7, 2015, 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 75-02-02 and 75-02-02.1, Medical Services and Eligibility for Medicaid, are necessary to comply with an appropriations measure passed during the 2015 legislative session, as directed by House Bill No. 1012.

The proposed changes are as follows:

Section 75-02-02-03.2 is amended to create a definition for “psychological visits”.

Section 75-02-02-08 is amended to clarify who can refer clients for speech, hearing, and language disorder services to be consistent with federal Medicaid regulations; to ensure consistency with the Medicaid state plan with regard to coverage for home health and private duty nursing services; and to specify the pharmacy reimbursement methodology for generic drugs by ensuring both the brand name and generic pricing information are included in the rules.

Section 75-02-02-09.1 is amended to clarify the cost-sharing exemption applying to all medical institutions; to ensure the reference to cost sharing exemptions for Native Americans is consistent with federal Medicaid regulations; to include that cost sharing exemption language applies to individuals eligible for Medicaid under the breast and cervical cancer treatment program, and to inmates, otherwise eligible for Medicaid and receiving qualifying inpatient services; to make a correction to emergency services that are exempt from cost-sharing; and to clarify the application of the copayment for an office visit.

Section 75-02-02-09.3 is amended to correct an error in the rule.

Section 75-02-02-09.4 is amended to include evaluation limits and clarify language.

Section 75-02-02-09.5 is amended to add “psychiatric residential treatment facility” to be consistent with federal Medicaid regulations.

Section 75-02-02-11 is amended to add “physician assistant” as a provider type that can be chosen or assigned as a Coordinated Service provider.

Section 75-02-02-11.5 is amended to account for a provider's acceptance of the recipient's selection as a coordinated services provider and to address what will occur if a selection is received after a recipient has been placed on medically necessary medical and pharmacy services.

Section 75-02-02-12 is amended to add other practitioners of the healing arts within their scope of practice to those directing emergency services.

Section 75-02-02-13.1 is amended to clarify who can be reimbursed for services, that enrollment in the Medicaid program is required if a provider wants to receive reimbursement, and that attendant services need authorization and proof of medical necessity.

Section 75-02-02-13.2 is amended to moves the words “medical center” prior to the word “city” to ensure it is consistent with the definition in this subsection.

Section 75-02-02-29 is amended to clarify the eligibility groups subject to selection of a primary care provider; and to add physician assistants to the list of providers that can serve as primary care providers, to remove “osteopathy” as a specialty for a primary care provider, to exempt individuals eligible under Medicaid expansion and who are medically frail, from selecting a primary care provider, and to extend the redetermination period from six to twelve months.

Section 75-02-02.1-24 is amended to update the monthly maintenance needs allowance to the legislatively authorized increase.

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 Thursday, December 17, 2015.

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 30th day of October, 2015.



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

October 30, 2015

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-02-02 & 75-02-02.1
Medical Services and Eligibility for Medicaid

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapters 75-02-02 & 75-02-02.1, Medical Services and Eligibility for Medicaid. 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 17, 2015.

The department has scheduled an oral hearing for December 7, 2015. 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,

Debra L. McDermott for Maggie D. Anderson
Maggie D. Anderson,
Executive Director

MDA/rs

Attachments

cc: **Vonette Richter, Legislative Council**
Erik Elkins, Medical Services