

Bryan Klipfel
Director



North Dakota
**Workforce Safety
& Insurance**

Putting Safety to Work

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JUN 25 2015

1600 East Century Avenue, Suite 1
PO Box 5585
Bismarck ND 58506-5585

June 25, 2015

Mr. John Walstad
Code Revisor
ND Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Dear Mr. Walstad:

The Full Notice of Intent to Adopt and Amend Administrative Rules relating to Workforce Safety & Insurance and Notice of Public Hearing, and copies of the proposed rule changes are enclosed, as required by N.D.C.C. §28-32-10(1). Also enclosed and attached to each proposed rule are the regulatory analyses, small entity regulatory analyses, small entity economic impact statements and fiscal notes and statement of whether any significant impact will occur.

Please note these proposed rule changes are effective April 1, 2016 with the exception of NDAC 92-01-02-18 which becomes effective July 1, 2016.

This Full Notice was not required to be mailed to any sponsors of legislation.

Respectfully,



Julie Porsborg
WSI Paralegal
Ph. 701-328-3878

Enclosures

**NOTICE OF INTENT TO
ADOPT and AMEND ADMINISTRATIVE RULES
RELATING TO WORKFORCE SAFETY & INSURANCE,
AND NOTICE OF PUBLIC HEARING**

Attorney Fees; Premium Penalties; Experience Rating; Rehabilitation Services; Medical Services Definitions; Medical Necessity; Home Modifications; Preservice Reviews; Provider Responsibilities; Elements of Filing; Other States' Coverage; Scholarship Fund Refunds; Risk Management; and Classification of Inmates.

TAKE NOTICE that Workforce Safety & Insurance will hold a public hearing to address proposed amendments to N.D. Admin. Code Title 92 at 8:30 a.m. on Thursday, August 6, 2015, at the WSI Board Room, Century Center, 1600 E. Century Avenue, Bismarck, North Dakota, at which time and place all persons will be heard regarding the proposed amendments to the North Dakota Administrative Code as follows:

1. The purpose of the proposed amendment to Administrative Code Section 92-01-02.11.1, relating to attorney's fees, is to increase the hourly payment to claimants' attorneys and to increase the maximum fees allowed to claimants' attorneys. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
2. The purpose of the proposed amendment to Administrative Code Section 92-01-02-14 relating to the procedure for penalizing employer accounts, is to provide for a past due status on billing statements of certain delinquent accounts. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
3. The purpose of the proposed amendment to Administrative Code Section 92-01-02-18, is to provide an increase in the primary loss limits for the purpose of experience rating. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000. This amendment becomes effective July 1, 2016.
4. The purpose of the proposed amendment to Administrative Code Section 92-01-02-24, relating to rehabilitation services, is to allow for the injured employee's purchase of required training equipment. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
5. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29, relating to medical services, is to provide definitions for "debilitating side effects;" "increase in function;" and, "improved pain control." The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
6. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.1, relating to medical necessity, is to follow standard pharmacy transactions for processing and dispensing over the counter medications prescribed by a physician, to exclude hot packs as a compensable item, and eliminate the opioid testing rule and is, in part, a result of legislation passed by the 64th Legislative Assembly, SB 2060. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

7. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.4, relating to home modifications, is to require documentation of home ownership and floor plans for new construction. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

8. The purpose of the proposed amendment to Administrative Code Section 92-01-02-34, relating to treatments requiring authorization, is to include massage therapy, acupuncture therapy and speech therapy visits to preservice review requirements. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

9. The purpose of the proposed amendment to Administrative Code Section 92-01-02-45.1, relating to provider responsibilities and billings, is to require the provider's National Provider Identifier number be included in billings and reports. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

10. The purpose of the proposed amendment to Administrative Code Section 92-01-02-48, relating to elements of filing, is to clarify signature requirements on the first report of injury form. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

11. The purpose of the proposed amendment to Administrative Code Section 92-01-02-50, is to parallel the attorney fees paid to employer's attorneys who qualify for reimbursement under this section, with the fees provided for in N.D.A.C. 92-01-02-11.1. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

12. The purpose of the proposed amendment to Administrative Code Section 92-01-02-53, relating to WSI's scholarship fund, is to clarify application criteria. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

13. The purpose of the proposed amendment to Administrative Code Section 92-01-04-02, relating to risk management program requirements is to remove the need for the department to provide annual documentation to WSI of excess coverage or reinsurance and is also the result of legislation passed by the 64th Legislative Assembly, House Bill 1120. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

14. The purpose of the proposed amendment to Administrative Code Section 92-01-04-03, clarifies the excess coverage or reinsurance requirements for the prison industry work program and is also the result of legislation passed by the 64th Legislative Assembly, House Bill 1120. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules, and regulatory analyses, small entity regulatory analyses, small entity economic impact statements, and fiscal notes, may be reviewed at Workforce Safety & Insurance, 1600 East Century Avenue, Suite 1, Bismarck, North Dakota. A copy of the proposed rules, and regulatory analyses, small entity regulatory analyses, small entity

economic impact statements, and fiscal notes may be requested by writing to the address below or by calling (701)328-3800.

Persons who require accommodations to attend or otherwise appear at this hearing should contact Workforce Safety & Insurance at the below address and phone number at least five days prior to the public hearing.

Workforce Safety & Insurance
ATTN: Legal Dept., Julie Porsborg
P.O Box 5585
1600 E. Century Ave., Suite 1
Bismarck, ND 58506-5585
(701)328-3800
TTY: 1-800-366-6888

Written or oral comments concerning the proposed rules may be sent or telephoned to the organization at the above address or phone number. The closing date for receipt and full consideration of all written or oral comments is end of business day, August 17, 2015.

Dated this 25th day of June 2015.

WSI Legal Department
ATTN: Julie Porsborg

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-04-03.

Title of Section: Classification of inmates - Costs of administration.

GENERAL: The following analysis is submitted in compliance with 28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-04-03.

Title of Section: Classification of inmates - Costs of administration.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:** There are no reporting or compliance requirements impacted by the change.

- B. Establishing less stringent schedules or deadlines for compliance or report:** There are no compliance issues impacted by the change.

- C. Consolidating or simplifying compliance or reporting requirements:** There is no compliance or reporting issues impacted by the change.

- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** There are no performance standards impacted by the change.

- E. Exempting small entities from all or part of the rule's requirements:** There are no entities impacted by the change.