

CHAPTER 75-03-23.2

COMMUNITY TRANSITION AND DIVERSION PROGRAM

Section

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75-03-23.2-01. Definitions.

1. "Community residence" means a private family home rented or owned by an individual or the individual's family, including an apartment, mobile home, foster home for adults as defined in North Dakota Century Code section 50-11-00.1, or agency foster home for adults as defined in North Dakota Century Code section 50-11-00.1.
2. "Community transition" means a set of activities that assist an eligible individual to move out of an institutional or other provider-operated residential facility setting and receive care in a community residence.
3. "Diversion" means a set of activities that occur before an eligible individual is admitted to an institutional setting or other provider-operated residential facility setting, which seek to provide an appropriate alternative to a nursing facility and meet the individual's needs in the most integrated setting.
4. "Most integrated setting" means a setting that enables individuals with disabilities to interact with nondisabled individuals to the fullest extent possible. The most integrated setting is usually a private residence owned or rented by the individual or the individual's family member in which the individual or their family member has property rights.
5. "Provider-operated residential facilities" means a skilled nursing facility, swing bed, basic care facility, assisted living facility, medical rehabilitation facility, medical hospital, group home setting for individuals with a developmental disability such as an intermediate care facility or developmental disabilities waiver-funded group setting.
6. "Significant disability" means an individual with a physical or mental impairment that substantially limits one or more major life activities with a record of such impairment or who is regarded as having such an impairment.

History: Effective January 1, 2026.

General Authority: NDCC 50-06-05.1, 50-06-16

Law Implemented: NDCC 50-06-05.1

75-03-23.2-02. Community transition eligibility criteria.

1. To be considered eligible for community transition, an applicant of any age must:
 - a. Be receiving Medicaid and have a significant disability;
 - b. Be receiving Medicaid expansion, have a significant disability, and have a verifiable monthly income at or below one hundred thirty-eight percent of the current monthly poverty level; or

- c. Be receiving currently or have been determined eligible by the department for one of the following services, waivers, or programs:
 - (1) Developmental disabilities program management;
 - (2) Developmental disabilities waiver;
 - (3) North Dakota Medicaid state plan personal care;
 - (4) Services payments for the elderly and disabled program;
 - (5) Expanded service payments for the elderly and disabled program;
 - (6) Medicaid waiver for home and community-based services;
 - (7) Children's hospice waiver;
 - (8) Autism spectrum disorder waiver; or
 - (9) Medically fragile children's waiver.
- 2. To be considered eligible, an applicant must be living in a provider-operated residential facility and be requesting a transition to an eligible community residence.
- 3. An applicant shall submit an application in the form and manner prescribed by the department.
- 4. An applicant with presumptive eligibility or a pending Medicaid application is not eligible for community transition.
- 5. An applicant is not eligible if:
 - a. The applicant qualifies for the money follows the person grant or another federal transition service.
 - b. A referral for the community transition program occurs after a transition to the community occurs.
 - c. The applicant previously has been enrolled in the community transition and diversion program within the past twelve months.
- 6. An individual is not eligible to reapply if the individual has been denied participation in the community transition program within the past twelve months, unless the individual has had a significant change in condition or living arrangement.

History: Effective January 1, 2026.

General Authority: NDCC 50-06-05.1, 50-06-16

Law Implemented: NDCC 50-06-05.1

75-03-23.2-03. Diversion eligibility criteria.

- 1. To be considered eligible for the diversion program, an applicant, of any age must:
 - a. Be receiving Medicaid and have a significant disability;
 - b. Be receiving Medicaid expansion, have a significant disability, and have a verifiable monthly income at or below one hundred thirty-eight percent of the current monthly poverty level; or

- c. Be receiving or have been determined eligible by the department for any of the following services, waivers, or programs:
 - (1) Developmental disabilities program management;
 - (2) Developmental disabilities waiver;
 - (3) North Dakota Medicaid state plan personal care;
 - (4) Services payments for the elderly and disabled program;
 - (5) Expanded service payments for the elderly and disabled program;
 - (6) Medicaid waiver for home and community-based services;
 - (7) Children's hospice waiver;
 - (8) Autism spectrum disorder waiver; or
 - (9) Medically fragile children's waiver.
- 2. To be considered eligible, an applicant must:
 - a. Live in a community residence and be in direct threat of being placed into a provider-operated residential facility;
 - b. If receiving developmental disability program management, be transitioning from a shared family home or other community residence into an independent or shared living situation with chosen roommates with support services provided under the developmental disabilities waiver and be considered at risk of admission to a provider-operated residential facility; or
 - c. Be unable to remain in the individual's current community residence due to:
 - (1) A significant change in physical health or the onset or worsening of a physical disability that requires relocation to an accessible housing unit; or
 - (2) An individual's current living environment having been deemed uninhabitable or unsafe by a local housing authority or inspector, and continued residence at that community residence would pose a danger to the individual's health or safety.
- 3. An applicant shall submit an application in the form and manner prescribed by the department.
- 4. An applicant with presumptive eligibility or a pending Medicaid application is not eligible for the diversion program.
- 5. An individual is not eligible to reapply if the individual having been denied participation in the diversion program within the past twelve months, unless the individual has had a significant change in condition or living arrangement.

History: Effective January 1, 2026.

General Authority: NDCC 50-06-05.1, 50-06-16

Law Implemented: NDCC 50-06-05.1

75-03-23.2-04. Services covered under community transition and diversion program - Programmatic criteria.

- 1. The department may provide community transition and diversion services necessary for:

- a. A successful transition from a provider-operated residential facility, foster home for adults as defined in North Dakota Century Code section 50-11-00.1, agency foster home for adults as defined in North Dakota Century Code section 50-11-00.1, or adult residential care facility to the eligible individual's most integrated setting;
 - b. Prevention of a placement in a provider-operated residential facility; and
 - c. Ongoing monitoring to promote health, safety, and welfare.
2. The department may provide the following services to eligible individuals with identified housing related needs:
 - a. Modifications to the individual's current residence to improve accessibility or safety; and
 - b. Assistance with locating and applying for a new, affordable, and accessible community residence.

History: Effective January 1, 2026.

General Authority: NDCC 50-06-05.1, 50-06-16

Law Implemented: NDCC 50-06-05.1

75-03-23.2-05. Allowable expenses for community transition and diversion program.

1. As part of the community transition and diversion program, the department may provide the following one-time products and services necessary for community transition or diversion:
 - a. Health and safety-related technology or expenses;
 - b. Security deposits required to obtain a lease on a community residence, including the cost of first month's rent;
 - c. Setup fees or deposits for telephone, electricity, heating, internet, and water service;
 - d. Rental application-related costs and fees;
 - e. Necessary home accessibility adaptations and environmental or medically required adaptations;
 - f. Adaptive equipment;
 - g. Essential household furniture, linens, window coverings, food preparation items, cleaning supplies, and small kitchen appliances;
 - h. Assistive technology devices;
 - i. One-time vehicle modifications for a vehicle owned and used by the individual;
 - j. Personal care items;
 - k. Packing and moving expenses;
 - l. Assistance with relocation from one community residence to another;
 - m. If required for the individual's health and safety, pest eradication, allergen control, or one-time cleaning prior to occupancy or relocation; and
 - n. One-time payments for assessments or services necessary to support community transition, such as a nursing assessment or assistive technology assessment.

2. An item or service that is not listed in this section is excluded from the community transition and diversion program.

History: Effective January 1, 2026.

General Authority: NDCC 50-06-05.1, 50-06-16

Law Implemented: NDCC 50-06-05.1

75-03-23.2-06. Denial, reduction, and termination - Appeal.

1. The department shall inform an individual who is determined to be ineligible for the community transition and diversion program or who becomes ineligible while participating in the community transition and diversion program in writing of the denial, termination, or reduction, the reasons for the denial, termination, or reduction, the right to appeal, and the appeal process as provided in chapter 75-01-03.
2. An eligible individual must receive ten calendar days' written notice before termination from services occurs. The ten-day notice is not required if:
 - a. The eligible individual enters a basic care facility or a nursing facility;
 - b. The termination is due to changes in federal or state law;
 - c. The eligible individual requests termination of services;
 - d. The eligible individual moves out of North Dakota;
 - e. The eligible individual becomes eligible for the money follows the person program; or
 - f. The eligible individual is deceased.
3. An applicant denied services or an eligible individual terminated from services should be given an appropriate referral to other public or private service providers and should be assisted in finding other resources.
4. The department shall deny or terminate community transition and diversion program services if service to the eligible individual presents an immediate threat to the health or safety of the eligible individual, the provider of services, or others or when services that are available are not adequate to prevent a threat to the health or safety of the eligible individual, the provider of services, or others. Examples of health and safety threats include physical abuse of the provider by the eligible individual, eligible individual self-neglect, an unsafe living environment for the eligible individual, or contraindicated practices, like smoking while using oxygen.
5. Errors made by public officials and delays caused by the actions of public officials do not create eligibility and may not form the basis for the award of any benefit to an adversely affected applicant or eligible individual who would not otherwise be eligible to receive that benefit.

History: Effective January 1, 2026.

General Authority: NDCC 50-06-05.1, 50-06-16

Law Implemented: NDCC 50-06-05.1