



**Legal Advisory Unit**

Fax (701) 328-2173  
Legal (701) 328-2311  
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ND Relay TTY (800) 366-6888

John Hoeven, Governor  
Carol K. Olson, Executive Director

August 8, 2008

Mr. John Walstad, Code Revisor  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-23  
Provision of Home and Community-Based Services under the Service Payments  
for Elderly and Disabled Program and the Medicaid Waiver for the Aged and  
Disabled Program

Dear Mr. Walstad:

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. Chapter 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 September 10, 2008, beginning at 10:30 a.m. and continuing until 12:00 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,

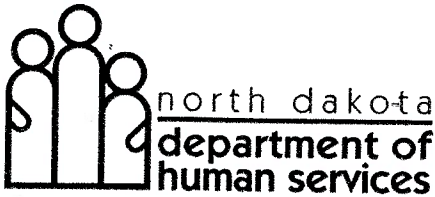
A handwritten signature in blue ink that reads "Julie Leer".

Julie Leer  
Legal Advisory Unit

JL/ca

Cc: Nancy Nikolas, Medical Services

Enclosures



John Hoeven, Governor  
Carol K. Olson, Executive Director

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO N.D.A.C. CHAPTER 75-03-23  
PROVISION OF HOME AND COMMUNITY-BASED SERVICES UNDER THE  
SERVICE PAYMENTS FOR ELDERLY AND DISABLED PROGRAM AND THE  
MEDICAID WAIVER FOR THE AGED AND DISABLED PROGRAM

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 75-03-23, at 10:30 a.m. on Wednesday, September 10, 2008, in Bismarck, N.D. in the AV room – Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code Chapter 75-03-23, Provision of Home and Community-Based Services under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program are to revise rules to comply with waiver requirements and federal and state laws and rules. The proposed amendments may have an impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

**Section 75-03-23-01, Definitions** is amended to clarify, establish, or revise definitions including: activities of daily living, adaptive assessment, client disabled, disqualifying transfers, functional impairment, instrumental activities of daily living, service fee, and Service Payments to the Elderly and Disabled (SPED) program pool,.

**Section 75-03-23-02, Eligibility criteria** is amended to clarify and revise SPED service eligibility criteria.

**Section 75-03-23-03, Eligibility determination – Authorization of services** is amended to revise references to county social service boards as the sole providers of case management to comply with federal regulations regarding provider choice, to clarify language and the requirements for the authorization of SPED services, and to clarify who must go through the SPED program pool before receiving SPED services.

**Section 75-03-23-04, Eligibility criteria for Medicaid waiver program** is amended to revise eligibility criteria for the Medicaid waiver to accommodate federally approved changes.

**Section 75-03-23-05, Services covered under the SPED program – Programmatic criteria** is amended to clarify that room and board payments may not be paid under the SPED or Medicaid waiver programs, and to clarify, revise, or add language and eligibility criteria to services available under the SPED program.

**Section 75-03-23-06, Services covered under the Medicaid waiver program – Programmatic criteria** is amended to clarify that room and board payments may not be paid under Medicaid waiver programs; to clarify, revise, or add language and eligibility criteria for services available under the Medicaid waiver program including new services authorized by the state legislature such as: attendant care, nurse management, family personal care, home delivered meals, extended personal care, and nurse education; to remove eligibility criteria for the services that are no longer being provided under the Medicaid waiver including: home health aide, personal attendant care, and training for family caregivers.

**Section 75-03-23-07, Qualified service provider standards and agreements** is amended to clarify and revise qualified service provider standards and agreements.

**Section 75-03-23-08, Termination of qualified service provider status** is amended to clarify and revise language regarding terminations of qualified service provider status, to allow for the denial or termination of providers with criminal convictions that have a direct bearing on their ability to provide care; and to add language regarding the denial of qualified service provider applications.

**Section 75-03-23-09, Payment under the SPED program and the Medicaid waiver program** is amended to clarify and revise requirements for payment under the SPED program and Medicaid waiver program.

**Section 75-03-23-11, Denial and termination of services – Appeal** is amended to revise requirements for denial and termination of services provided under the SPED and Medicaid waiver program to include notice for reductions in service and to clarify health welfare and safety requirements.

**Section 75-03-23-12, Provider – request for review** is added to allow providers to request a review of decisions made regarding provider reimbursement.

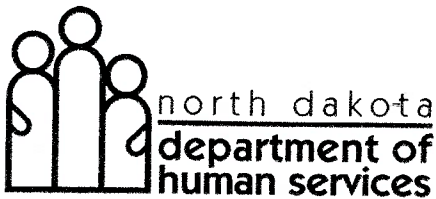
**Section 75-03-23-13, Provider –appeals** is added to identify the process for provider appeals.

**Section 75-03-12-14, Disqualifying transfers** is added to clarify disqualifying transfers for SPED governed under N.D.C.C. §50-06.2.

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 Monday, September 22, 2008.

**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 7th day of August, 2008.



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John Hoeven, Governor  
Carol K. Olson, Executive Director

August 7, 2008

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-23  
Provision of Home and Community-Based Services under the Service Payments  
for Elderly and Disabled Program and the Medicaid Waiver for the Aged and  
Disabled Program

**TO WHOM IT MAY CONCERN:**

The Department of Human Services is proposing amendments to N.D. Admin. Code Chapter 75-03-23, Provision of Home and Community-Based Services under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program. The department has adopted procedures to assure public input into the formulation of such 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 September 22, 2008.

The department has scheduled an oral hearing on September 10, 2008. 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,



Carol K. Olson,  
Executive Director

CKO/ca

Attachments

Cc: John Waistad, Legislative Council  
Nancy Nikolas, Medical Services