

CHAPTER 75-02-10
AID TO VULNERABLE AGED, BLIND, AND DISABLED INDIVIDUALS

75-02-10-05. Eligibility criteria. An individual may receive necessary benefits under this chapter if the individual:

1. Is a resident of this state;
2. Is:
 - a. Sixty-five years of age or older; or
 - b. Eighteen years of age or older and disabled or blind;
3. Has applied for and been found eligible for medicaid benefits;
4. Has countable income which, when reduced by the cost of necessary benefits provided under:
 - a. Subsection 1 or 2 of section 75-02-10-02, does not exceed ~~sixty dollars~~ the personal needs allowance established pursuant to legislative appropriation; or
 - b. Section 75-02-10-02, except subsection 1 or 2, does not exceed an amount equal to the cash benefit under title XVI of the Social Security Act [42 U.S.C. 1381, et seq.], which the individual would receive if the individual had no income or assets;
5. Has not made an assignment or transfer of property for the purpose of rendering the individual eligible for assistance under this chapter; and
6. Based on a functional assessment made in accordance with this chapter, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating; and

- a. Has health, welfare, or safety needs, including a need for supervision or a structured environment, which require care in a licensed adult family foster care home or a licensed basic care facility; or
- b. Is impaired in three of the following four instrumental activities of daily living:
 - (1) Preparing meals;
 - (2) Doing housework;
 - (3) Taking medicine; and
 - (4) Doing laundry.

History: Effective May 1, 1995; amended effective June 1, 2002; January 1, 2010.

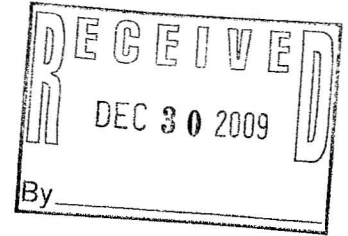
General Authority: NDCC 50-06-16, 50-24.5-02(8)

Law Implemented: NDCC 50-24.5



— State of —
North Dakota
Office of the Governor

John Hoeven
Governor



December 29, 2009


Carol Olson
Executive Director
Department of Human Services
600 East Boulevard Ave
Bismarck, ND 58505-0250

Dear Carol,

On December 29, 2009, I received your request for approval of emergency rulemaking to amend North Dakota Administrative Code chapter 75-02-10-05 relating to the eligibility criteria for individuals in basic care facilities.

I have reviewed the request pursuant to N.D.C.C. § 28-32-03 and find that emergency rulemaking is reasonably necessary to avoid a delay in implementing an appropriations measure.

Sincerely,


John Hoeven
Governor

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