

JUN 30 2010

Legal Advisory Unit



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John Hoeven, Governor
Carol K. Olson, Executive Director

June 30, 2010

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

RE: Emergency Rule Making for Proposed Amendments to N.D. Admin. Code Chapter 75-04-05 – Reimbursement for Providers of Services to Individuals with Developmental Disabilities and Chapter 75-04-06 – Eligibility for Mental Retardation-Developmental Disabilities Case Management Services

Dear Mr. Walstad:

Attached for filing in the office of the Legislative Council are the following:

1. Notice of Intent to Amend Administrative Rules concerning the above proposed rules as required by N.D.C.C. § 28-32-02;
2. Finding and Statement of Reason of Carol K. Olson, Executive Director of the North Dakota Department of Human Services, with respect to the declaration of the proposed amendments to N.D.A.C. Chapters 75-04-05 and 75-04-06;
3. Interim final rules effective July 1, 2010; and
4. The June 30, 2010, letter from Governor Hoeven approving the request for emergency rulemaking.

Ms. Olson has declared that the proposed amendments require emergency rulemaking. Accordingly, Ms. Olson has declared these proposed amendments to be interim final rules effective July 1, 2010.

The department has determined that appropriate measures to make the proposed interim final rules known to every person who may be affected by them consist of mailing a copy of the proposed rules to each county social service board office, to each regional human service center, and to persons or entities who have expressed an interest in receiving notice of such rulemaking; furnishing this notice to the Legislative Council; and publishing notice of the proposed rulemaking once in each county newspaper of general circulation published in the state of North Dakota.

Mr. John Walstad, Code Revisor
Emergency Rule Making for Proposed Amendments
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If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,



Julie Leer
Legal Advisory Unit

Attachments

JL/kh

Cc: John Bole, Developmental Disabilities

John Hoeven, Governor
Carol K. Olson, Executive Director

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-04-05
REIMBURSEMENT FOR PROVIDERS OF SERVICES TO INDIVIDUALS WITH
DEVELOPMENTAL DISABILITIES
AND
CHAPTER 75-04-06
ELIGIBILITY FOR MENTAL RETARDATION-DEVELOPMENTAL DISABILITIES
CASE MANAGEMENT SERVICES

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 75-04-05 and 75-04-06 at 1:30 p.m. on Tuesday, August 10, 2010, in Bismarck, N.D. in the AV Room – Room 212, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapters 75-04-05 and 75-04-06, are necessary to comply with the Centers for Medicare and Medicaid Services directive to the Department to set its reimbursement methods to a fee-for-service method for Infant Development services under the Approved Traditional MR/DD HCBS Waiver ND0037 and the new Autism Spectrum Disorder waiver. The proposed amendments are not anticipated to have an impact on the regulated community in excess of \$50,000.

Section 75-04-05-01 is amended to remove the definition of units of service in infant development to reflect the change in payment method.

Section 75-04-05-10 is amended to remove infant development from services reimbursed on a daily rate.

Section 75-04-05-22 is amended to remove infant development as a consideration in the development of a daily rate.

Section 75-04-06-06 is created to identify specific services authorized by waiver subject to the fee-for-service payment method.

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 Friday, August 20, 2010.

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 June, 2010.



John Hoeven, Governor
Carol K. Olson, Executive Director

**FINDING AND STATEMENT OF REASON
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
REGARDING PROPOSED AMENDMENTS TO
NORTH DAKOTA ADMINISTRATIVE CODE CHAPTER 75-04-05
REIMBURSEMENT FOR PROVIDERS OF SERVICES TO INDIVIDUALS WITH
DEVELOPMENTAL DISABILITIES
AND
CHAPTER 75-04-06
ELIGIBILITY FOR MENTAL RETARDATION-DEVELOPMENTAL DISABILITIES
CASE MANAGEMENT SERVICES**

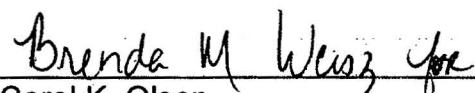
FINDING

I hereby find that emergency rulemaking to amend N.D. Admin. Code chapter 75-04-05, reimbursement for providers of services to individuals with developmental disabilities and chapter 75-04-06, eligibility for mental retardation-developmental disabilities case management services, is necessary to avoid a loss of funds appropriated to support a duty imposed by law upon the agency.

STATEMENT OF REASON

Emergency rulemaking is necessary for the Department of Human Services to comply with CMS and the Approved Traditional MR/DD HCBS Waiver ND0037 and to create the appropriate rate system for the new ASD waiver.

Dated this 29th day of June, 2010.



Carol K. Olson
Executive Director



— State of —
North Dakota
Office of the Governor

John Hoeven
Governor

June 30, 2010

Carol Olson
Executive Office
Department of Human Services
600 E. Blvd. Ave. Dept. 325
Bismarck, ND 58505-0250

RECEIVED

JUN 30 2010

**EXECUTIVE DIRECTOR
ND DEPT. OF HUMAN SERVICES**

Dear Carol,

On June 29, 2010, I received your request for approval of emergency rulemaking to amend North Dakota Administrative Code chapters 75-04-05 and 75-04-06 relating to reimbursement for providers of service to individuals with developmental disabilities and eligibility for mental retardation-developmental disabilities case management services.

I have reviewed the request pursuant to N.D.C.C. § 28-32-03 and find that emergency rulemaking is reasonably necessary to avoid loss of funds appropriated for a duty that is imposed by law.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hoeven".

John Hoeven
Governor

38:34:58