

AUG 16 2010

Legal Advisory Unit



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John Hoeven, Governor
Carol K. Olson, Executive Director

August 13, 2010

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

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-02-01.2
Temporary Assistance for Needy Families

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. section 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 Tuesday, September 21, 2010, beginning at 3:30 p.m. and continuing until 5:00 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/kh

Cc: Brenda Peterson, TANF

Enclosures

John Hoeven, Governor
Carol K. Olson, Executive Director

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-02-01.2
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

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 75-02-01.2 at 3:30 p.m. on Tuesday, September 21, 2010, 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 **Error! Reference source not found.** chapter 75-02-01.2, temporary assistance for needy families, are necessary to incorporate clarifications in the federal law into program rules and to repeal sections no longer necessary for the administration of the program. The proposed amendments are not anticipated to have an impact on the regulated community in excess of \$50,000.

Section 75-02-01.2-01 is amended to clarify the language of several definitions and to define child only case, earned right benefit, financially-responsible person, housing costs, and special item of need. Obsolete definitions are being removed.

Section 75-02-01.2-02.1 is amended to remove the word “assistance”; to remove the requirement for participation in the pathways to work program while receiving diversion; and to clarify the rate at which benefits will continue during an appeal of adverse action.

Section 75-02-01.2-02.2 is amended to add a reference to the rules used for background checks and other investigations for TANF kinship care.

Section 75-02-01.2-02.3 is amended to remove the specific titles of each special item of need.

Section 75-02-01.2-10 is amended to remove redundancy within the rules.

Section 75-02-01.2-13 is amended to clarify that a resident of the state at the time of application is an individual living in the state who is not receiving TANF assistance from another state.

Section 75-02-01.2-15 is amended to clarify the exceptions within the section.

Section 75-02-01.2-24 is amended to clarify treatment of recurring unearned income lump sum payments.

Section 75-02-01.2-27 is amended to clarify when a social security number must be provided.

Section 75-02-01.2-28 is amended to reflect federal law requirements on treatment of an alien's sponsor's income and assets in determining eligibility.

Section 75-02-01.2-28.1 is amended to reflect federal law requirements on when qualified aliens may be eligible for benefits and when an alien's sponsor's spouse's income may be considered in determining eligibility.

Section 75-02-01.2-30 is amended to remove an obsolete requirement.

Section 75-02-01.2-31 is amended to clarify that any amount for a special item of need cannot be added to the standard of need, to remove criteria no longer appropriate to use as good cause reasons for a minor parent to not reside with his or her parent.

Section 75-02-01.2-32 is amended to reflect that stepparents must be included in the TANF household.

Section 75-02-01.2-33 is amended to clarify that children in receipt of supplemental security income are not TANF eligible and thus are not referred to child support for TANF purposes.

Section 75-02-01.2-35 is amended to identify the housing allowance as a special item of need.

Section 75-02-01.2-37 is amended to clarify that the parent and spouse of the parent must be included in the TANF household; that a stepparent can receive TANF for a stepchild, when the stepchild's natural or adoptive parent does not reside in the home; and that individuals disqualified from TANF must be considered a member of the household.

Section 75-02-01.2-40 is amended to clarify that assets or income owned jointly with a recipient of supplemental security income are disregarded when determining eligibility for TANF.

Section 75-02-01.2-41 is amended to clarify how an individual remains a resident of North Dakota when the individual is absent from the state for brief periods and to clarify that an individual living out of state must be doing so temporarily.

Section 75-02-01.2-44 is amended to reflect the inclusion of all earned rights benefits, to change the name of programs as changed in federal law, and to clarify when sponsor's income and assets are considered.

Section 75-02-01.2-47 is amended to reflect that nonexcluded income that equals or exceeds the standard of need will result in ineligibility for TANF.

Section 75-02-01.2-51 is amended to reflect the correct period for receipt of the employment incentive disregards after an individual who was employed, loses employment and becomes reemployed; and to delete a penalty for a job quit or refusal of employment without good cause.

Section 75-02-01.2-52 is amended to reflect the penalty for an individual who quits a job or refuses a bona fide offer of employment is a sanction.

Section 75-02-01.2-53 is amended to reflect that individuals who incur child care costs while attending school or training should have the cost of that care paid through the child care assistance program and to clarify when a deduction for child care may not be made.

Section 75-02-01.2-62 is amended to clarify benefits for which a child who comes home from boarding school for a weekend visit is eligible.

Section 75-02-01.2-63 is amended to clarify that drug and alcohol facilities referenced in this section are treatment facilities.

Section 75-02-01.2-64 is amended to allow essential services to be paid for the special need or condition of a member of the household who is in receipt of supplemental security income and to identify essential services as special items of need.

Section 75-02-01.2-65 is amended to identify catastrophic events and unforeseen circumstances as special items of need.

Section 75-02-01.2-66 is amended to identify a medical insurance premium as a special item of need.

Section 75-02-01.2-67 is amended to identify a child restraint system as a special items of need.

Section 75-02-01.2-68 is amended to identify high school graduate or GED incentive payments as special items of need.

Section 75-02-01.2-68.1 is created to identify the housing allowance as a special item of need.

Section 75-02-01.2-71 is amended to not allow overpayments to be suspended where an individual committed an intentional program violation.

Section 75-02-01.2-72 is amended to reflect changes in federal law relative to the requirement that, to be disqualified for 10 years, an individual must be convicted in federal or state court for fraudulently misrepresenting their residence to receive TANF, Medicaid, supplemental nutrition assistance or supplemental security income benefits in two or more states simultaneously.

Section 75-02-01.2-73 is amended to identify health tracks reimbursement payments as special items of need.

Section 75-02-01.2-74 is repealed.

Section 75-02-01.2-75 is amended to remove the requirement to complete a social contract.

Section 75-02-01.2-76 is repealed.

Section 75-02-01.2-77 is repealed.

Section 75-02-01.2-79 is amended to add the imposition of a JOBS sanction due to job quit or refusal of an offer of employment and to remove the requirement to impose a sanction for reasons related to the social contract.

Section 75-02-01.2-80 is repealed.

Section 75.02-01.2-81 is repealed.

Section 75-02-01.2-82 is amended to clarify the definition of employment contractor.

Section 75-02-01.2-87 is amended to change the period of exemption from participation in the JOBS Program after the birth of a baby.

Section 75-02-01.2-88 is amended to change the time within which program orientation, initial assessment, and employability planning must be completed.

Section 75-02-01.2-90 is amended to reflect the name change of the supportive services available to individuals after their TANF cases close, and to clarify that assistance with expenses must be necessary for individuals to engage in employment or participate in employment interviews.

Section 75-02-01.2-103 is amended to update the amount child care must exceed the maximums allowed for good cause to be determined.

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, October 1, 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 13th day of August, 2010.