



DEC 30 2009

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John Hoeven, Governor  
Carol K. Olson, Executive Director

December 30, 2009

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 75-02-06 – Ratesetting for Nursing Home Care

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. Chapter 75-02-06;
3. Interim final rules effective January 1, 2010; and
4. The December 21, 2009, 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 January 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

JL/ca

Cc: LeeAnn Thiel, Medical Services



north dakota  
department of  
human services

Legal Advisory Unit

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NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTER 75-02-06  
RATESETTING FOR NURSING HOME CARE

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 75-02-06 at 3:30 p.m. on Thursday, February 11, 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 chapter 75-02-06, Ratesetting for Nursing Home Care, are necessary to comply with an appropriations measure passed during the 2009 legislative session, as directed by House Bill No. 1012. The proposed amendments are anticipated to have an impact on the regulated community in excess of \$50,000.

**Section 75-02-06-02.5** is amended to include allowable bad debt expense and education expense as property costs upon which property rates are based.

**Section 75-02-06-10** is amended to increase the maximum allowable bad debt expense from one hundred twenty days of resident care for any one individual to one hundred eighty days of resident care per year or an aggregate of three hundred sixty days of resident care for any one individual.

**Section 75-02-06-12** is amended to clarify the definitions for offset to costs to address the inclusion of allowable bad debt expense and education expense in section 75-02-06-02.5.

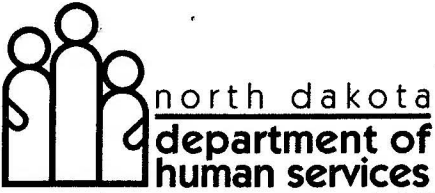
**Section 75-02-06-12.1** is amended to identify when education expense is an allowable cost.

**Section 75-02-06-16** is amended to reflect the increase in rates for the rate years beginning January 1, 2010, and January 1, 2011.

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, February 22, 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 30<sup>th</sup> day of December, 2009.



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 75-02-06  
RATESETTING FOR NURSING HOME CARE**

**FINDING**

I hereby find that emergency rulemaking to amend N.D. Admin. Code Chapter 75-02-06, Ratesetting for Nursing Home Care, is necessary to avoid a delay in implementing an appropriations measure.

**STATEMENT OF REASON**

Emergency rulemaking is necessary to avoid a delay in implementing the Department's appropriation for nursing facility ratesetting provided in 2009 House Bill 1012. Also relevant to nursing facility ratesetting effective January 1, 2010, are the legislative mandates found in 2009 House Bills HB 1303 and 1307. All changes would be effective on January 1, 2010, to ensure their effect for the rate year beginning January 1, 2010.

Dated this 18 day of December, 2009.

A handwritten signature in cursive script that reads "Carol K. Olson".

\_\_\_\_\_  
Carol K. Olson  
Executive Director