

Bryan Klipfel
Director



**North Dakota
Workforce Safety
& Insurance**
Putting Safety to Work
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JUN 08 2011

1600 East Century Avenue, Suite 1
PO Box 5585
Bismarck ND 58506-5585

June 7, 2011

Mr. John Walstad
Code Revisor
ND Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Dear Mr. Walstad:

The Full Notice of Intent to Adopt, Amend, and Repeal Administrative Rules relating to Workforce Safety & Insurance and Notice of Public Hearing, and copies of the proposed changes to the rules are enclosed, as required by N.D.C.C. §28-32-10(1). Also, a statement indicating no regulatory analyses or small entity impact statements were required is enclosed.


This Full Notice is also mailed to the following sponsors of legislation:

Workers' Compensation Review Committee, sponsor of House Bill 1050, regarding the proposed creation of Administrative Rule 92-01-02.53.1 regarding a vocational rehabilitation grant program.

Workers' Compensation Review Committee, sponsor of House Bill 1055, regarding the proposed changes to Administrative Rule 92-01-02-25 regarding permanent impairment evaluations.

Representative Andrew Maragos and Senator Oley Larsen, sponsors of House Bill 1453, regarding the proposed creation of Administrative Rule 92-01-02-29.4 regarding home modifications.

Respectfully,


Julie Porsborg
WSI Paralegal
Ph. 701-328-3878

Enclosures

**NOTICE OF INTENT TO
ADOPT, AMEND, and REPEAL ADMINISTRATIVE RULES
RELATING TO WORKFORCE SAFETY & INSURANCE
AND NOTICE OF PUBLIC HEARING**

Organizational Rule; Doctor's Opinion; Attorney's Fees; Mileage Reimbursements for Medical Treatment and Adult Learning Centers; Permanent Impairment Evaluations; Medical Necessity; Motor Vehicle Purchase or Modification; Home Modification; Utilization Review; Treatment Requiring Authorization; Provider Responsibilities and Billings; Determination of Employment; Vocational Rehabilitation Grant Program; Retrospective Rating Program; Procedure for Dispute Resolution; Eligibility – Billing - Risk Management Program; and Safety Outreach Program.

TAKE NOTICE that Workforce Safety & Insurance will conduct a public hearing at 9:00 a.m. on Thursday, July 14, 2011, at the WSI Board Room, Century Center, 1600 E. Century Avenue, Bismarck, North Dakota, at which time and place all persons will be heard regarding the proposed creations, amendments, and repeals to the North Dakota Administrative Code as follows:

1. The purpose of the proposed amendment to Administrative Code Section 92-01-01-01, relating to organization and functions, is to update current functional position titles. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
2. The purpose for the creation of Administrative Code Section 92-01-02-02.4, pertaining to a treating doctor's opinion, is to clarify North Dakota Century Code section 65-05-08.3. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.
3. The purpose of the proposed amendment to Administrative Code Section 92-01-02-11.1, relating to attorney's fees, is to increase the hourly payment to claimant counsel and to clarify when an administrative hearing is called to order. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
4. The purpose of the proposed amendment to Administrative Code Section 92-01-02-12, relating to travel to medical treatment, is to clarify the calculation for mileage reimbursement as found in North Dakota Century Code section 65-05-28(2). The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
5. The purpose of the proposed amendment to Administrative Code Section 92-01-02-24, relating to rehabilitation services, is to clarify the calculation for mileage reimbursement for travel to an adult learning center; and to allow the original vendor receipt when appropriate. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
6. The purpose of the proposed amendment to Administrative Code Section 92-01-02-25, relating to permanent impairment evaluations, is to adopt the provisions of legislation passed by the 62nd Legislative Assembly, House Bill 1055. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

7. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.1, relating to medical necessity, is to identify procedures and treatment not payable by WSI. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

8. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.3, relating to a motor vehicle purchase or modification, is to clarify and define the requirements necessary for vehicle purchase or modification. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

9. The purpose for the creation of Administrative Code Section 92-01-02-29.4, relating to home modifications, is the result of legislation passed by the 62nd Legislative Assembly, House Bill 1453. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

10. The purpose of the proposed amendment to Administrative Code Section 92-01-02-33, relating to utilization review and quality assurance, is to allow for pre-operative psychosocial screens and psychological evaluations prior to the authorization of reimbursement for surgery. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

11. The purpose of the proposed amendment to Administrative Code Section 92-01-02-34, relating to treatment requiring authorization, is to clarify when doctor's orders are needed for medical equipment and to clarify requirements for various modalities of treatment. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

12. The purpose of the proposed amendment to Administrative Code Section 92-01-02-45.1, relating to provider responsibilities and billings, is to clarify those items which may impact provider billings. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

13. The purpose of the proposed amendment to Administrative Code Section 92-01-02-49, relating to determination of employment, is to clarify who falls into the category of an independent contractor. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

14. The purpose for the creation of Administrative Code Section 92-01-02-53.1, relating to a vocational rehabilitation grant program, is a result of legislation passed by the 62nd Legislative Assembly, House Bill 1050. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

15. The purpose of the proposed amendment to Administrative Code Section 92-01-02-56, relating to retrospective rating program, is to allow the employer to choose one maximum liability limit per retrospective rated period. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

16. The purpose of the proposed amendment to Administrative Code Section 92-01-03-04, relating to a procedure for dispute resolution, is to update a functional position title. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

17. The purpose of the proposed amendment to Administrative Code Section 92-05-02-03, relating to eligibility for the risk management program, is to remove the title safety outreach program of which the rule was repealed and replaced with the risk management program. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

18. The purpose for the repeal of Administrative Code Section 92-05-02-06, is because the safety outreach program has been redesignated. The proposed repeal is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rule adoptions, amendments, and repeal; and required regulatory analyses, small entity regulatory analyses, and small entity economic impact statements, as required, are on file and may be reviewed or copied on any working day between 8:00 a.m. and 5:00 p.m., at Workforce Safety & Insurance, 1600 East Century Avenue, Bismarck, North Dakota. A copy of the proposed rules and/or regulatory analyses may be requested by writing to the address below or by calling (701)328-3800.

Persons who require accommodations to attend or otherwise appear at this hearing should contact Workforce Safety & Insurance at the below address and phone number at least five days prior to the public hearing.

Workforce Safety & Insurance
Attention: Julie Porsborg
P.O Box 5585
1600 E. Century Ave., Suite 1
Bismarck, ND 58506-5585
(701)328-3800
TTY: 1-800-366-6888

Written or oral data, views, or arguments concerning the proposed rule changes may be sent or phoned to the organization at the above address or phone number. The closing date for receipt and full consideration of all written or oral submissions is July 25, 2011.

Dated this 7th day of June, 2011.

Julie Porsborg
Paralegal