

**BEFORE THE  
ADMINISTRATIVE RULES COMMITTEE  
OF THE  
NORTH DAKOTA LEGISLATIVE COUNCIL**

<b>N.D. Admin. Code Chapter 75-03-37, Transition-Aged Youth At Risk (Pages 234-236)</b>	<b>) ) ) )</b>	<b><u>REPORT OF THE</u> <u>DEPT. OF HUMAN SERVICES</u> <b>March 9, 2010</b></b>
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For its report, the North Dakota Department of Human Services states:

1. The proposed creation of N.D. Admin. Code chapter 75-03-37 is in response to 2009 HB 1044 which created North Dakota Century Code section 50-06-34 to require the Department of Human Services to develop a program of services for transition-aged youth at risk.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department of Human Services uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service boards, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.

The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on December 18, 2009. The record was held open until 5:00 p.m. on December 28, 2009, to allow written comments to be submitted. A summary of the comments received is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$1,918.20.
6. The proposed rule creates chapter 75-03-37. The following specific changes were made:  

Chapter 75-03-37. Chapter 75-03-37 establishes eligibility criteria, identifies services available through the Transition-Aged Youth at Risk Program, and creates a statewide interagency advisory council on transition-aged youth at risk and regional subcommittees.
7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed chapter is not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.

9. A constitutional takings assessment was prepared and is attached to this report.
10. These rules were not adopted as emergency (interim final) rules.

Prepared by:

Julie Leer  
Legal Advisory Unit  
North Dakota Department of Human Services  
March 9, 2010



Chapter 75-03-37  
Transition-Aged Youth at Risk

Section

75-03-37-01 – Definitions.

75-03-37-02 – Transition-aged youth at risk program – Eligibility – Services.

75-03-37-03 – Transition-aged youth at risk program – Statewide interagency advisory council – Regional subcommittees.

**SECTION 1.** A new chapter to article 75-03 is created as follows:

**75-03-37-01. Definitions.** As used in this chapter:

1. "Department" means the department of human services.
2. "Independent living skills" includes self advocacy; the sufficiency to economically meet one's daily needs and to have a safe and stable place to live; ability to attain academic, vocational, or educational goals; the ability to develop a sense of connectedness; ability to avoid illegal or high risk behaviors; and an understanding of how to access physical and mental health services.
3. "Individualized assessment" means the process that each service provider uses to determine the needs and appropriate services to transition-aged youth at risk.
4. "In-home supports" means supports provided to a youth, the youth's family, or both, in the home environment including mentoring, individual and family training, and respite care.
5. "Single plan of care (SPOC)" means a plan of care that identifies and documents needs, tasks, goals, and the safety plan of the family which is developed by the children and family team based on the family's unique strengths, values, and needs.
6. "Transition-aged youth at risk" means children and young adults who are at risk due to deprivation or other activities resulting in youth being involved with the foster care or juvenile justice system; serious mental illness or serious disabilities that do not qualify the youth for developmental disabilities case management; or suicidal tendencies.
7. "Vocational rehabilitation" means an employment-focused program that helps eligible individuals with physical or mental impairments improve their employment opportunities by assisting individuals with disabilities to achieve competitive employment and increased independence.
8. "Wrap-around" means a strength-based philosophy of care that includes a definable process involving the child and family that results in a unique set of community services and supports individualized for that child and family.

**History:** Effective April 1, 2010

**General Authority:** NDCC 50-06-34

**Law Implemented:** NDCC 50-06-34

**75-03-37-02. Transition-aged youth at risk program – Eligibility – Services.**

1. The executive director of the department shall designate an individual from within the department to oversee the program for transition-aged youth at risk. Transition-aged youth at risk ages 14 through 24 are eligible for participation in the program.
2. Services to an individual youth must be appropriate to that youth and do not need to include all services of the transition-aged youth at risk program. The department shall provide the services. Services available under the transition-aged youth at risk program include:
  - a. An individualized assessment for transition-aged youth at risk;
  - b. Development of a single plan of care to coordinate services among available service systems, emphasizing existing case management resources;
  - c. Assistance in developing independent living skills;
  - d. Services for transitioning students from high school to employment or post secondary education;
  - e. In-home support, including mentors, individual and family training, and access to respite care;
  - f. Development of a statewide independent living skills curriculum for youth and families.
  - g. Substance abuse assessment and treatment;
  - h. Psychological and psychiatric evaluation and treatment;
  - i. Individual, group, and family therapy services;
  - j. Case aide services; and
  - k. Crisis residential services;

**History:** Effective April 1, 2010

**General Authority:** NDCC 50-06-34

**Law Implemented:** NDCC 50-06-34

**75-03-37-03. Transition-aged youth at risk program – Statewide interagency advisory council – Regional subcommittees.**

1. The statewide interagency advisory council consists of representatives of the various system partners such as education, juvenile justice, child welfare, tribes, case management, vocational rehabilitation, legislative assembly, parents and youth. Members are selected based on their knowledge, understanding, and interest in the needs of transition-aged youth. The advisory council shall advise the department concerning program and policy issues, delivery of services, and methods for reaching potential consumers.
  - a. Department staff providing oversight for the program will develop and facilitate the advisory council.
  - b. The statewide interagency advisory council shall meet on a regular basis as determined by the council.
2. The regional subcommittees consist of representatives of the various system partners such as education, juvenile justice, child welfare, tribes, case management, vocational rehabilitation, parents and youth. Members

are selected based on their knowledge, understanding, and interest in the needs of transition-aged youth. The purpose of the regional subcommittee will be to advise the human service center in the subcommittee's region on program and policy issues, delivery of services, and methods for reaching consumers. A subcommittee will be formed in each of the eight human service center regions.

- a. The individual providing oversight for this program shall designate a person from a human service center to develop and facilitate the regional subcommittee within the region of the human service center.
- b. The regional subcommittee shall meet on a regular basis as determined by the subcommittee.

**History:** Effective April 1, 2010

**General Authority:** NDCC 50-06-34

**Law Implemented:** NDCC 50-06-34





John Hoeven, Governor  
Carol K. Olson, Executive Director

**SUMMARY OF COMMENTS RECEIVED  
REGARDING PROPOSED CREATION OF  
N.D. ADMIN. CODE CHAPTER 75-03-37  
TRANSITION-AGED YOUTH AT RISK**

The North Dakota Department of Human Services (the Department) held a public hearing on December 18, 2009, in Bismarck, ND, concerning a proposed creation of N.D. Administrative Code Chapter 75-03-37, Transition-Aged Youth at Risk.

Written comments on these proposed amendments could be offered through 5:00 p.m. on December 28, 2009.

No one attended or provided comments at the public hearing. One written comment was received within the comment period. The commentor was:

1. Abigail Bingen, return address not provided.

**SUMMARY OF COMMENTS**

**Comment:** Since there is going to be an establishment of a Regional Subcommittee, I believe that it is important to have Native Americans on the subcommittee to represent the largest minority group in North Dakota. We have many transition aged youth at risk on my reservation. What is going to be done to include tribes?

**Response:** The proposed section 75-03-37-03, establishing the statewide interagency advisory council and the regional subcommittees, includes representatives of the tribes in the composition of the council and subcommittees. Because tribal representatives are included in the membership of the regional subcommittees in the original draft, no change is needed.

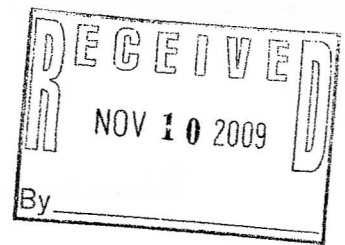
There will be no change to the proposed rules.

Prepared by:

Julie Leer, Director  
Legal Advisory Unit  
N.D. Dept. of Human Services

December 31, 2009

Cc: Rhonda Stevens, CFS  
Wendy LaMontagne, MHSA  
Susan Wagner, MHSA  
Cheryl Hess, VR



## MEMO

**TO:** Julie Leer, Director, Legal Advisory Unit

**FROM:** Rhonda Stevens, Independent Living Program Administrator

**RE:** Regulatory Analysis of Proposed North Dakota Administrative Code chapter 75-03-37

**DATE:**

The purpose of this regulatory analysis is to fulfill the requirements of N.D.C.C. § 28-32-08. This analysis pertains to proposed to North Dakota Administrative Code Article 75-09.1. These amendments are not anticipated to have a fiscal impact on the regulated community in excess of \$50,000.

Purpose

*The purpose of these rules is to enact House Bill NO. 1044.*

Classes of Persons Who Will be Affected

The classes of person who will most likely be affected by these rules are:

1. *Transition-Aged Youth between the ages of 14-24.*
2. *Family of Transition-Aged Youth.*

*The Transition-aged youth and their family will benefit through the assistance of wraparound case management services. These services will assist in coordinating individualized transition plans for you who would benefit from state wide interagency collaboration.*



### Probable Impact

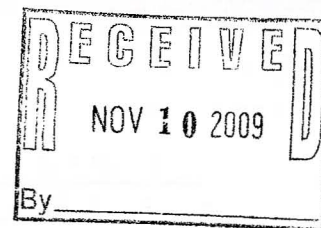
*Probable Impact of these rules will be the transition-aged youth and their family will benefit through the assistance of wraparound case management services. These services will assist in coordinating individualized transition plans for you who would benefit from state wide interagency collaboration.*

### Probable Cost of Implementation

*There was a fiscal note attached to House Bill NO. 1044. There was no specific dollar appropriation included. At this time the program will be administered through existing resources within the Department of Human Services.*

### Consideration of Alternative Methods

*Alternative methods might include the use of grant funds to support the implementation of House Bill NO. 1044.*



## MEMORANDUM

**TO:** Julie Leer, Director, Legal Advisory Unit

**FROM:** Rhonda Stevens,

**DATE:** November 10, 2009

**SUBJECT:** Small Entity Regulatory Analysis Regarding Proposed [New/ Amendments to] N.D. Admin. Code chapter 75-03-37

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The purpose of this small entity regulatory analysis is to fulfill the requirements of N.D.C.C. § 28-32-08.1. This regulatory analysis pertains to proposed [new/amendments to] N.D. Admin. Code chapter 75-03-37. The proposed rules are not mandated by federal law.

Consistent with public health, safety, and welfare, the Department has considered using regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. For this analysis, the Department has considered the following methods for reducing the rules' impact on small entities:

1. Establishment of Less Stringent Compliance or Reporting Requirements

*Consider: Was establishment of less stringent compliance or reporting requirements for small entities considered? NO*

2. Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Entities

*Consider: Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? NO*

3. Consolidation or Simplification of Compliance or Reporting Requirements for Small Entities

*Consider: Was consolidation or simplification of compliance or reporting requirements for small entities considered? NO*

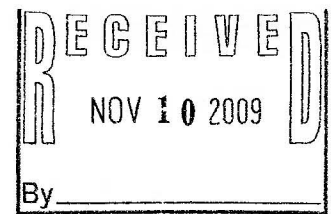
4. Establishment of Performance Standards for Small Entities to Replace Design or Operational Standards Required in the Proposed Rules

*Consider: Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? NO*

5. Exemption of Small Entities From All or Any Part of the Requirements Contained in the Proposed Rules

*Consider: Was exemption of small entities from all or any part of the requirements in the proposed rule considered? NO*





## MEMORANDUM

**TO:** Julie Leer, Director, Legal Advisory Unit

**FROM:** Rhonda Stevens, Independent Living Program Administrator

**DATE:** November 10, 2009

**SUBJECT:** Small Entity Economic Impact Statement Regarding Proposed New N.D. Admin. Code chapter 75-03-37

The purpose of this small entity economic impact statement is to fulfill the requirements of N.D.C.C. § 28-32-08.1. This impact statement pertains to proposed new section of N.D. Admin. Code chapter 75-03-37. The proposed rules are not mandated by federal law. The proposed rules could have an adverse economic impact on small entities.

### 1. Small Entities Subject to the Proposed Rules

The small entities that are subject to the [new/proposed amended] rules are:

*There are no small entities identified that are subject to House Bill NO. 1044.*

The following small entities may also be subject to the rule: *None*

### 2. Costs For Compliance

The administrative and other costs required for compliance with the proposed rule are expected to be:

*A Small Entity Economic Impact Statement is not been required.*

### 3. Costs and Benefits

The probable cost to private persons and consumers who are affected by the proposed rule: *None*

The probable benefit to private persons and consumers who are affected by the proposed rule:

*The benefit to the private persons and consumers is that transition-aged youth at risk would receive transition/wraparound services.*

#### 4. Probable Effect on State Revenue

The probable effect of the proposed rule on state revenues is expected to be:

*There would be no immediate effect on state revenue.*

#### 5. Alternative Methods

The Department considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. Those alternatives included: *None*

The alternatives were not selected because: *Not applicable.*

John Hoeven, Governor  
Carol K. Olson, Executive Director

## TAKINGS ASSESSMENT

concerning proposed creation of N.D. Admin. Code chapter 75-03-37.

This document constitutes the written assessment of the constitutional takings implications of this proposed rulemaking as required by N.D.C.C. § 28-32-09.

1. This proposed rulemaking does not appear to cause a taking of private real property by government action which requires compensation to the owner of that property by the Fifth or Fourteenth Amendment to the Constitution of the United States or N.D. Const. art. I, § 16. This proposed rulemaking does not appear to reduce the value of any real property by more than fifty percent and is thus not a "regulatory taking" as that term is used in N.D.C.C. § 28-32-09. The likelihood that the proposed rules may result in a taking or regulatory taking is nil.
2. The purpose of this proposed rule is clearly and specifically identified in the public notice of proposed rulemaking which is by reference incorporated in this assessment.
3. The reasons this proposed rule is necessary to substantially advance that purpose are described in the regulatory analysis which is by reference incorporated in this assessment.
4. The potential cost to the government if a court determines that this proposed rulemaking constitutes a taking or regulatory taking cannot be reliably estimated to be greater than \$0. The agency is unable to identify any application of the proposed rulemaking that could conceivably constitute a taking or a regulatory taking. Until an adversely impacted landowner identifies the land allegedly impacted, no basis exists for an estimate of potential compensation costs greater than \$0.
5. There is no fund identified in the agency's current appropriation as a source of payment for any compensation that may be ordered.
6. I certify that the benefits of the proposed rulemaking exceed the estimated compensation costs.

Dated this 10th day of November, 2009.

by: Julie Leen  
N.D. Dept. of Human Services