

NOV 22 2011

Legal Advisory Unit



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Jack Dalrymple, Governor
Carol K. Olson, Executive Director

November 18, 2011

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

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-02-02.1 and 75-02-02.2
Eligibility for Medicaid and Children's Health Insurance Program

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 Wednesday, December 28, 2011, beginning at 2:00 p.m. and continuing until 3:30 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: Curtis Volesky, Medical Services

Enclosures



Jack Dalrymple, Governor
Carol K. Olson, Executive Director

November 18, 2011

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-02-02.1 and 75-02-02.2
Eligibility for Medicaid and Children's Health Insurance Program

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapters 75-02-02.1 and 75-02-02.2, Eligibility for Medicaid and Children's Health Insurance Program. The department has adopted procedures to assure public input into the formulation of such rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on January 9, 2012.

The department has scheduled an oral hearing on December 28, 2011. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

Your participation is welcomed, as are your suggestions. Please send all written data, views, or arguments to: Rules Administrator, Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,

A handwritten signature in black ink that reads "Carol K. Olson". The signature is written in a cursive style.

Carol K. Olson,
Executive Director

CKO/kh

Attachments

Cc: John Walstad, Legislative Council
Curtis Volesky, Medical Services

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTERS 75-02-02.1 AND 75-02-02.2
ELIGIBILITY FOR MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM

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 75-02-02.1 and 75-02-02.2 at 2:00 p.m. on Wednesday, December 28, 2011, 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 75-02-02.1 and 75-02-02.2, eligibility for Medicaid and Children's Health Insurance Program, are necessary to address changes in federal law, to address changes made by 2011 HB 1320?.

The proposed changes are as follows:

Section 75-02-02.1 and 75-02-02.2 is amended to move the definitions of nursing care services and student from other sections of chapter 75-02-02.1 into section 75-02-02.1-01 which contains definitions for the chapter.

Section 75-02-02.1-05 is amended to reflect the increase in the asset level for Medicare Savings Programs.

Section 75-02-02.1-15 is amended to clarify requirements for establishing incapacity of a parent for purposes of determining eligibility.

Section 75-02-02.1-24.2 is amended to reflect the change that combines the sections on exempt and excluded assets in chapter 75-02-02.1.

Section 75-02-02.1-25 is amended to clarify parental assets that are considered available to a disabled child under age eighteen.

Section 75-02-02.1-26 is amended to reflect the change that combines the sections on exempt and excluded assets in chapter 75-02-02.1.

Section 75-02-02.1-27 is repealed to reflect the change that combines the sections on exempt and excluded assets in chapter 75-02-02.1.

Section 75-02-02.1-28 is amended to reflect the change that combines the sections on exempt and excluded assets in chapter 75-02-02.1, to clarify the requirements of what constitutes a good faith effort to sell real property or a mobile home, to clarify that preneed burial contracts are considered pre-payments or deposits set aside for burial, and to add employer-sponsored retirement plans as an excluded asset for purposes of determining medical eligibility.

Section 75-02-02.1-28.1 is amended to correct internal references that changed due to combining the sections on exempt and excluded assets in chapter 75-02-02.1.

Section 75-02-02.1-33.1 is amended to reflect the change that combines the sections on exempt and excluded assets in chapter 75-02-02.1 and to move the definition of "nursing care services" to section 75-02-02.1-01.

Section 75-02-02.1-33.2 is amended to correct internal references that changed due to combining the sections on exempt and excluded assets in chapter 75-02-02.1, to move the definition of "nursing care services" to section 75-02-02.1-01, and to clarify how to rebut the presumption that assets or income have been transferred to an implied trust.

Section 75-02-02.1-38.1 is amended to include certain real estate taxes in the types of income that may be disregarded in determining medicaid eligibility.

Section 75-02-02.1-38.2 is amended to move the definition of "student" and "full-time student" to section 75-02-02.1-01.

Section 75-02-02.1-39 is amended to clarify that reasonable child care expenses do not include payments to parents to care for their own children and to correct a typographical error.

Section 75-02-02.2-13.1 is amended to clarify that that reasonable child care expenses do not include payments to parents to care for their own children.

The proposed amendments are anticipated to have an impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

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, January 9, 2012.

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 18th day of November, 2011.