

CHAPTER 75-02-13 FAMILY PAID CAREGIVER PROGRAM

Section

75-02-13-01	Definitions
75-02-13-02	Application - Eligibility
75-02-13-03	Administration
75-02-13-04	Denials - Revocations - Terminations - Appeals

SECTION 1: Section 75-02-13-01 is amended as follows:

75-02-13-01. Definitions.

1. "Applicant" means an individual seeking services under this chapter.
2. "Application" means a request in the form and manner prescribed by the department signed by an applicant or by a legally responsible individual on behalf of the applicant.
3. "Assessment" means the tool used by the family paid caregiver program to determine when an applicant needs extraordinary care considering the unique needs and circumstances of an applicant, including age; community living skills; social and communication skills; medication needs; medical needs; specialized physical and therapeutic needs; and maladaptive issues.
4. "Department" means the department of health and human services.
- ~~4.5.~~ "Extraordinary care" means care determined by the assessment as exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of the applicant or eligible participant without extraordinary medical or behavioral needs and is necessary to assure the health and welfare and to avoid institutionalization of the applicant or eligible participant in need of care.
- ~~5.6.~~ "Family caregiver" means a legally responsible individual who lives with and provides daily care to an eligible participant.
- ~~6.7.~~ "Legally responsible individual" means an individual who has a duty under law to care for the applicant or eligible participant, including a biological or adoptive parent, nonentity custodian, guardian, or a spouse.
- ~~7.8.~~ "Medicaid 1915(c) waiver" means the approved autism spectrum disorder waiver, medically fragile waiver, children's hospice waiver, or traditional individuals with intellectual disabilities and developmental disabilities home and community-based services waiver.

History: Effective April 1, 2024; amended effective June 29, 2026.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

SECTION 2: Section 75-02-13-02 is amended as follows:

75-02-13-02. Application - Eligibility.

1. An applicant or legally responsible individual may apply to the department to participate in the family paid caregiver program.
2. A completed application must be submitted to the department upon initial application and annually thereafter.
3. The date of application is the date a completed application is received by the department.
4. The department may declare an application withdrawn if the applicant or legally responsible individual fails to submit all required documentation or information within thirty days of the department's notification to the applicant or legally responsible individual that the application is incomplete.
5. An applicant is eligible to become an eligible participant if all the following conditions are met:
 - a. The applicant is enrolled in a Medicaid 1915(c) waiver;
 - b. The applicant's support needs are not otherwise compensated for through other services available through a Medicaid 1915(c) waiver or Medicaid state plan;
 - c. The applicant's ~~assessed needs meet~~ assessment score is at least fifty percent of the applicable points based on the age of the applicant to meet the extraordinary care requirement; and
 - d. The requirements of section 75-02-13-03 are met.

History: Effective April 1, 2024; amended effective June 29, 2026.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

SECTION 3: Section 75-02-13-03 is amended as follows:

75-02-13-03. Administration.

1. Eligible participants supported under this chapter may not exceed the limits

of legislative appropriations for the family paid caregiver program.

2. The department shall review completed applications in the order received and shall only approve applications within the limits of legislative appropriations for the family paid caregiver program.
3. Upon review of ~~the an~~ application form, the department shall request that the applicant or legally responsible individual complete the ~~department-approved assessment~~. The department shall score the assessment to determine if whether the applicant meets applicant's score is at least fifty percent of the applicable points based on the age of the applicant to meet the extraordinary care requirement. An assessment is part of a completed application.
4. Upon approval of a completed application, the department shall issue an authorization not to exceed six months. The department may reissue an authorization for an additional six months.
5. The family caregiver shall attest annually the family caregiver will not seek reimbursement for extraordinary care through the family caregiver service pilot program on days when other 1915(c) waiver services are paid by the department.
6. The department shall conduct face-to-face visits in the eligible participant's home at a minimum of every six months.
7. If the family caregiver has not submitted a request for payment for thirty calendar days, the department shall inform the eligible participant or legally responsible individual that if an additional thirty calendar days pass without a request for payment, the service may be terminated due to inactivity.
8. The department shall deny an application if approval would exceed the limits of legislative appropriations for the family paid caregiver program or if the applicant does not meet the eligibility requirements pursuant to section 75-02-13-02. The department shall terminate an authorization if the funding awarded is exhausted or due to inactivity. The department shall revoke an authorization if the eligible participant is no longer eligible pursuant to section 75-02-13-02 or if the department is unable to conduct face-to-face visits due to refusal.
9. Funds are not available until the department approves the application and issues an authorization.

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