

July 28, 2026

Liz Fordahl, Counsel
North Dakota Legislative Council
State Capitol
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-23 and 75-03-24
Provision of Home and Community-Based Services under the Service Payments
for Elderly and Disabled Program and the Medicaid Waiver for the Aged and
Disabled Program and Expanded Service Payments for Elderly and Disabled

Dear Ms. Fordahl:

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 Friday, September 18, 2026, beginning at 1:30 p.m. and continuing
until 3:00 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,



Jason Nisbet
Legal Division

JN/rv

cc: Nancy Maier, Aging Services

Enclosures

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NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES RELATING
TO N.D. ADMINISTRATIVE CODE CHAPTERS

75-03-23 AND 75-03-24

PROVISION OF HOME AND COMMUNITY-BASED SERVICES UNDER
THE SERVICE PAYMENTS FOR ELDERLY AND DISABLED PROGRAM
AND THE MEDICAID WAIVER FOR THE AGED AND DISABLED
PROGRAM AND EXPANDED SERVICE PAYMENTS FOR ELDERLY AND
DISABLED

TAKE NOTICE that the North Dakota Department of Health and Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24 at 1:30 p.m. on Friday, September 18, 2026, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24, Provision of Home and Community-Based Services under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program and Expanded Service Payments for Elderly and Disabled, are not a result of changes in federal or state law. An administrative rule change is necessary to clarify eligibility and the application process; ensure the eligibility and application processes are properly promulgated; meet federal requirements for preventing fraud, waste, and abuse; and implement the state fraud, waste, and abuse reduction plan.

The proposed amendments are as follows:

Section 75-03-23-01 is amended to create definitions for “accreditation”, “comprehensive assessment”, “person-centered plan of care”, and “program coordinator”, and to remove the definition of “functional assessment”.

Section 75-03-23-05 is amended to replace “functional assessment” with “comprehensive assessment” and to allow an eligible individual or legal decisionmaker to submit a grievance to the department concerning their person-centered plan.

Subsections 7, 20, and 21 of section 75-03-23-06 are amended to clarify when the department cannot provide payment for rehabilitation or for community support services.

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Section 75-03-23-07 is amended to require that providers obtain a national provider identifier, enroll as qualified service providers, and sign Medicaid provider agreements; to require that individuals providing direct care and employed by qualified service provider agencies meet the same qualifications as qualified service providers; to determine when qualified service providers must revalidate enrollment and provide evidence of competency; to clarify when the department may suspend an individual pending the final disposition of criminal charges; to update competency requirements for providers; to require providers to submit evidence of certification in first aid and cardiopulmonary resuscitation; to update competency and training requirements; to establish quality improvement and assurance requirements; to require providers to implement and comply with person-centered practices; and to establish documentation requirements.

Section 75-03-23-08 is amended to update when the department may deny an application to become a qualified service provider.

Section 75-03-23-08.1 is amended to update citations to sections 75-02-05-05 and 75-02-05-07 and to update when the department may suspend or terminate a qualified service provider.

Section 75-03-23-15 is amended to replace “functional assessment” with “comprehensive assessment” and to update the process by which an applicant shall apply for services and provide proof of eligibility.

Section 75-03-23-16 is amended to update a citation to section 75-03-23-07.

Section 75-03-23-17 is amended to replace “functional assessment” with “comprehensive assessment” and to allow the department to complete the six-month reassessment virtually in certain circumstances.

Section 75-03-23-18 is created to establish requirements for residential habilitation and community support services.

Section 75-03-24-01 is amended to create definitions for “comprehensive assessment”, “functional impairment,” and “person-centered plan of care”.

Section 75-03-24-02 is amended to update eligibility criteria for expanded service payments.

Section 75-03-24-03 is amended to update the responsibilities of the department in determining eligibility.

Section 75-03-24-04 is amended to update application requirements.

Section 75-03-24-05 is repealed.

Section 75-03-24-06 is amended to replace “functional assessment” with “comprehensive assessment”, to establish the comprehensive assessment requirements, and to allow the department to complete the six-month reassessment virtually in certain circumstances.

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 human service zones offices and at the state-operated behavioral health clinics. 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 Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments must be received no later than 5:00 p.m. on Monday, September 28, 2026.

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 Health and Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 28th day of July, 2026.

July 28, 2026

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Provision of Home and Community-Based Services under the Service Payments
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Disabled Program and Expanded Service Payments for Elderly and Disabled

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24, Provision of Home and Community-Based Services under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program and Expanded Service Payments for Elderly and Disabled. The department has adopted procedures to assure public input into the formulation of the 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 Monday, September 28, 2026.

The department has scheduled an oral hearing for Friday, September 18, 2026. 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 Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,



Emily O'Brien
Deputy Commissioner

EMO/rv

Enclosures

cc: Liz Fordahl, Legislative Council
Nancy Maier, Aging Services

OFFICE OF THE COMMISSIONER

GOVERNOR
Kelly Armstrong

INTERIM COMMISSIONER
Pat Traynor