

July 23, 2025

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

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-02-02 and 75-02-02.1
Medical Services and Eligibility for Medicaid

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 Tuesday, September 16, 2025, beginning at 9:00 a.m. and continuing until 10:30 a.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,



Jonathan Alm
Legal Division

JA/rv

cc: Joyce Johnson, Medical Services
Brendan Joyce, Medical Services
LeeAnn Thiel, Medical Services
Krista Fremming, Assistant Director of Medical Services Division
Sarah Aker, Executive Director of Medical Services Division

Enclosures

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NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D. ADMIN. CODE CHAPTERS 75-02-02 AND 75-02-02.1
MEDICAL SERVICES AND ELIGIBILITY FOR MEDICAID

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 75-02-02 and 75-02-02.1 at 9:00 a.m. on Tuesday, September 16, 2025, 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 75-02-02 and 75-02-02.1, Medical Services and Eligibility for Medicaid, are necessary to incorporate updates pursuant to 2025 Senate Bill No. 2076 and 2025 House Bill Nos. 1067 and 1485. The proposed changes are as follows:

Section 75-02-02-27 is amended to implement 2025 Senate Bill No. 2076, regarding annual certification of the medical necessity for each medication in the medication regiment that contains five or more concurrent prescriptions for certain medications and prior authorizations.

Section 75-02-02.1-01 is amended to amend Medicaid eligibility definitions for “blind”, “children’s health insurance program”, “disabled”, “good-faith effort to sell”, “regulation”, “supplemental security income”, and to add definitions for “individual on conditional release”, “inmate”, “institution”, “institution for mental diseases”, “public institution”, and “unconditionally released” that had previously been located elsewhere in the chapter .

Section 75-02-02.1-03 is amended to clarify application processing timeframes.

Section 75-02-02.1-11 is amended to clarify need and utilization for Medically Needy members.

Section 75-02-02.1-19 is amended to remove definitions relating to inmates of public institutions as they have been relocated to section 75-02-02.1-01 for clarity, to clarify the rules regarding inmates of public institutions, and to remove language regarding institutions for mental diseases due to the fact that a new

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section is created at section 75-02-02.1-19.2 to address institutions for mental diseases.

Section 75-02-02.1-19.2 is created to provide standards for institutions for mental diseases, since the language that had previously implemented those standards was removed from section 75-02-02.1-19. The section establishes eligibility requirements for federal financial participation for institutions for mental diseases.

Subsection 1 of Section 75-02-02.1-24 is amended to update the definition of “monthly maintenance needs allowance” to reflect that the minimum amount used is what is federally mandated.

Section 75-02-02.1-38.2 is amended to update the disregarded income for non-MAGI individuals based on the Department’s current practice. The section also reflects changes approved by 2025 House Bill No. 1067 that become effective July 1, 2026, which treat as disregarded income Social Security Survivor Benefits and child support for children under age eighteen years and enrolled in a Medicaid waiver under section 1915(c) of the Social Security Act.

Section 75-02-02.1-38.3 is amended to update the disregarded income for MAGI individuals based on the Department’s current practices.

Section 75-02-02.1-40 is amended to update the ineligible community spouse income level to reflect that the minimum amount used is what is federally mandated, and to increase income level for personal needs based on 2025 House Bill No. 1485.

The proposed amendments are not 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 and at human service centers/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 on the proposed rules must be received no later than 5:00 p.m. on Friday, September 26, 2025.

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 23rd day of July, 2025.

July 23, 2025

RE: Proposed Amendments to N.D. Admin. Code chapters 75-02-02 and 75-02-02.1
Medical Services and Eligibility for Medicaid

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code chapters 75-02-02 and 75-02-02.1, Medical Services and Eligibility for Medicaid. 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 Friday, September 26, 2025.

The department has scheduled an oral hearing for Tuesday, September 16, 2025. 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,



J. Patrick Traynor
Interim Commissioner

JPT/rv

Enclosures

cc: Liz Fordahl, Legislative Council
Joyce Johnson, Medical Services
Brendan Joyce, Medical Services
LeeAnn Thiel, Medical Services
Krista Fremming, Assistant Director of Medical Services Division
Sarah Aker, Executive Director of Medical Services Division

OFFICE OF THE COMMISSIONER

GOVERNOR
Kelly Armstrong

INTERIM COMMISSIONER
Pat Traynor