

**CHAPTER 75-03-38**  
**AUTISM SPECTRUM DISORDER VOUCHER PROGRAM**

Section

75-03-38-01 Definitions

75-03-38-02 Eligibility—Financial—Functional

75-03-38-03 Application

75-03-38-04 ~~Review of Application—Approval—Denial—Effect of Inactivity of Voucher Services~~

75-03-38-05 Denials – Terminations – Appeals

**SECTION 1:** Section 75-03-38-01 is amended as follows:

**75-03-38-01. Definitions.**

1. "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
2. "Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.
3. "Department" means the department of human services.
4. "Division" means the medical services division of the department.
5. "Provider" means a teacher, physical therapist, occupational therapist, or licensed therapist working with a child to address deficits created by an autism diagnosis.
6. "Qualified professional" means an individual who holds a doctor of philosophy degree in the medical or health care industry who uses the diagnostic guidelines of the American academy of pediatrics a primary care provider or licensed medical care provider qualified to diagnose autism spectrum disorder.
- 5-7. "Sensory equipment" means an item that lessens or amplifies the intensity of various forms of sensory stimulation and helps to desensitize individuals to sensory stimuli.
6. ~~"Unit" means the autism services unit of the department.~~

**History:** Effective July 1, 2014; amended effective April 1, 2018.

**General Authority:** NDCC 50-06-32.1

**Law Implemented:** NDCC 50-06-32.1

SECTION 2: Section 75-03-38-02 is amended as follows:

**75-03-38-02. Eligibility—Financial—Functional.**

1. A parent, custodian, or legal guardian may apply to the unit~~division~~ to participate in the voucher program for ~~needs identified for aif~~ all the following conditions are met:
  - a. The child with~~has~~ an autism spectrum disorder diagnosis, ~~whose;~~
  - b. The child's age is from three years through seventeen years, ~~and whose family;~~
  - c. The household has an income below two hundred percent of the federal poverty level for the ~~child's family size;~~
  - d. The child ~~may~~is not ~~be~~currently served under any of the department's ~~developmental disability-medicaid waiver or the department's autism spectrum disorder birth through seven medicaid waiver,~~ and the need for voucher support must be established through the completion of the voucher program application provided by the unit~~waivers;~~
2. ~~A child aged three years through seventeen years may be eligible if all of the following conditions are met:~~
  - ~~a-e.~~ The child has been recommended for voucher support by a qualified professional;
  - ~~b-f.~~ The child's support need cannot be obtained through insurance or through other service systems, including educational and behavioral health systems;
  - ~~e-g.~~ The item or support requested is cost-effective in meeting the child's needs; ~~and~~
  - ~~d-h.~~ The child's needs cannot be met by a generic service or support; and
  - The child lives with the child's parent, custodian, or legal guardian.
3. 2. Voucher support approved for a child with an autism spectrum diagnosis under this chapter may not exceed twelve thousand five hundred dollars per state fiscal year.

3. The department will review complete voucher applications in the order received; and shall only approve voucher applications based on the voucher slots available and within the limits of legislative appropriations.

**History:** Effective July 1, 2014; amended effective April 1, 2018.

**General Authority:** NDCC 50-06-32.1

**Law Implemented:** NDCC 50-06-32.1; S.L. 2013, ch. 206, § 8

**SECTION 3:** Section 75-03-38-03 is amended as follows:

**75-03-38-03. Application.**

1. A parent, custodian, or legal guardian of a child diagnosed with an autism spectrum disorder shall provide the following information on an application form provided by the ~~unit~~division:

- 1.a. Verification from a qualified professional of a diagnosis of the autism spectrum disorder based on the criteria identified in ~~edition five of~~the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American psychiatric association.

- 2.b. Verification of North Dakota residency for at least six months.

- 3.c. Verification of ~~family~~household's gross income below two hundred percent of the federal poverty level ~~for the appropriate family size.~~

4. ~~Copy of the child's most recent individualized service plan, or other evaluation, assessment, or treatment plan.~~

- 5.d. Signed releases of information to the child's service providers and school.

6. ~~Description of how the funding will be used.~~

2. A completed application must be submitted yearly.

**History:** Effective July 1, 2014; amended effective April 1, 2018.

**General Authority:** NDCC 50-06-32.1

**Law Implemented:** NDCC 50-06-32.1

**SECTION 4:** Section 75-03-38-04 is amended as follows:

**75-03-38-04. Review of Application – Approval – Denial – Effect of Inactivity of Voucher services.**

1. The division may approve an application for one state fiscal year.

2. ~~The unit/division shall review the application for completeness and will determine the child's eligibility for voucher supports. Upon written approval of the voucher application, the unit shall enter an agreement with the parent, custodian, or legal guardian of the eligible child. The unit shall enter an agreement with the parent, custodian, or legal guardian of the eligible child. The unit~~
3. Upon approval of the application, the division shall issue a voucher request form to be completed by the parent, custodian, or legal guardian of the eligible child indicating the specific approved supports or services/item or service being requested. A description of each item or service requested, from a provider working with the eligible child, must accompany the voucher request form, stating how the item or service will compensate for a deficit created by an autism spectrum disorder.
4. ~~The unit/division may approve a voucher request for a one-time purchase or for multiple purchases over time. The unit may alter or deny a request for practices or supports that may put the health and safety of the child at risk.~~
5. ~~If a voucher is approved for multiple purchases over time, the unit/division will monitor the voucher for activity. If the voucher is not used for one hundred eighty consecutive calendar days, the eligible child's parent, custodian, or legal guardian will be informed that the voucher will be terminated if an additional thirty calendar days pass without a voucher purchase or request for voucher reimbursement. Any funds approved for a terminated voucher that are unspent will be returned to the voucher program and the unit may distribute the funds to another applicant. The unit shall issue a written notice to a parent, custodian, or legal guardian whose voucher application has been denied or if the voucher is terminated for inactivity. The unit shall include the reason for the denial or termination and shall inform the parent, custodian, or legal guardian of the right to appeal the denial or termination; provided, however, that a parent, custodian, or legal guardian may not appeal a termination resulting from the parent, custodian, or legal guardian exhausting the funding awarded under the voucher.~~
6. If the voucher is not used for one hundred eighty consecutive calendar days, the division will inform the parent, custodian, or legal guardian that, if an additional thirty calendar days pass without a voucher purchase or request for item or service, the voucher will be terminated. Any funds from a terminated voucher that are unspent will be returned to the voucher program and the division may distribute the funds to another applicant.

7. A voucher application may be denied if approving the application, item, or service would exceed the limits of legislative appropriations. A voucher may be terminated if the funding awarded under the voucher is exhausted.
8. The voucher funds cannot be used for:
  - a. Items or services that are parental responsibilities, including daily clothing, upkeep of residence, fences, internet, or utilities;
  - b. Duplicate items or services that address identical deficit goals;
  - c. Items or services that are not age appropriate;
  - d. Items or services that are not connected to the child;
  - e. Items or services covered by insurance;
  - f. Items or services if the voucher is terminated;
  - g. Items or services that put the health and safety of the child at risk;
  - h. Replacement items, except for disposable products, such as sensory or tactile stimulation items; and
  - i. Items that are restricted within property rental agreements or are the responsibility of landlords, tenants, or the homeowner.

**History:** Effective July 1, 2014; amended effective April 1, 2018.

**General Authority:** NDCC 50-06-32.1

**Law Implemented:** NDCC 50-06-32.1

**SECTION 5:** Section 75-03-38-05 is amended as follows:

**75-03-38-05. Denials -Terminations - Appeals.**

1. The division shall issue a written notice to a parent, custodian, or legal guardian when a voucher application has been denied, an item or service has been denied, or if the voucher is terminated for inactivity.
2. The division shall include the reason for the denial or termination and shall inform the parent, custodian, or legal guardian of the right to appeal the denial or termination.
3. A voucher application, an item or service, or voucher may be denied or terminated under the terms and conditions of this chapter or North Dakota Century Code section 50-06-32.1.

4.        A parent, custodian, or legal guardian may appeal a denial or termination of a voucher under this chapter. An appeal under this section must be made in writing ~~on a form developed and provided by the department~~ within thirty days of the date of the notice issued under ~~this section 75-03-38-04~~. The parent, custodian, or legal guardian shall submit the written request for an appeal and hearing under North Dakota Century Code chapter 28-32 and chapter 75-01-03 to the appeals supervisor for the department of human services.
5.        A parent, custodian, or legal guardian may not appeal a termination resulting from exhausting the funding awarded under the voucher or if approving the voucher would exceed the limits of legislative appropriations.

**History:** Effective July 1, 2014; amended effective April 1, 2018.

**General Authority:** NDCC 50-06-32.1

**Law Implemented:** NDCC 50-06-32

**CHAPTER 75-03-39  
AUTISM SERVICES WAIVER**

Section

75-03-39-01 Definitions

75-03-39-02 Eligibility for Services Under the Medicaid Autism Spectrum Disorder Birth Through ~~Seven Medicaid~~Eleven Waiver

**SECTION 6:** Section 75-03-39-01 is amended as follows:

**75-03-39-01. Definitions.**

1. "Department" means the department of human services.
2. "~~Unit~~Division" means the ~~autism services unit~~medical services division of the department.
3. "Qualified professional" means a primary care provider or licensed medical care provider qualified to diagnose autism spectrum disorder.

**History:** Effective July 1, 2014; amended effective April 1, 2018.

**General Authority:** S.L. 2013, ch. 206, § 3

**Law Implemented:** S.L. 2013, ch. 206, § 3

**SECTION 7:** Section 75-03-39-02 is amended as follows:

**75-03-39-02. Eligibility for services under the medicaid autism spectrum disorder birth through ~~seven medicaid~~eleven waiver.**

1. A child is eligible for autism services under the department's medicaid autism spectrum disorder birth through ~~seven medicaid~~eleven waiver if the following conditions are met:
  - a. The age of the child is birth through ~~seven~~eleven years of age;
  - b. The child has an autism spectrum disorder diagnosis ~~confirmed by an autism spectrum disorder waiver evaluation and diagnostic team approved by the unit~~from a qualified professional able to determine diagnosis; and
  - c. An autism spectrum disorder waiver slot is available.
2. Annual redetermination for continued waiver services is required to ~~ascertain~~determine if the child meets the institutional level of care required by the centers for medicare and medicaid services ~~and can continue to receive services on the autism waiver.~~

**History:** Effective July 1, 2014; amended effective April 1, 2018.

**General Authority:** S.L. 2013, ch. 206, § 3

**Law Implemented:** S.L. 2013, ch. 206, § 3