

NOV 09 2015

Legal Advisory Unit



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Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

November 9, 2015

Vonette Richter, Assistant Code Revisor
North Dakota Legislative Council
State Capitol
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-23
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

Dear Ms. Richter:

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 December 15, 2015, beginning at 12:00 p.m. and continuing until 1:30 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,


Julie Leer for
Legal Advisory Unit

JL/rs

cc: Nancy Nikolas Maier, Medical Services

Enclosures

Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-03-23
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

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 75-03-23 at 12:00 p.m. on Tuesday, December 15, 2015, 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 chapter 75-03-23, 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, are necessary to comply requirements enacted by the sixty-fourth Legislative Assembly in 2015 Senate Bills No. 2050 and 2081.

The proposed changes are as follows:

Section 75-03-23-02 is amended to provide eligibility for home and community-based services for an applicant based on estimated monthly benefits or for an individual is receiving a service not available under medicaid or the medicaid waiver, as required under 2015 Senate Bill No. 2050.

Sections 75-03-23-05 and 75-03-23-06, and subsections 5 and 7 of section 75-03-23-07 are amended to change references to "adult family foster care" to "adult foster care" as required under 2015 Senate Bill No. 2081.

Section 75-03-23-07 is amended to remove certain offenses from the list of criminal offenses that prevent an applicant from being a qualified service provider, to address when an applicant who was the subject of a child abuse and neglect assessment that resulted in a services required decision may or may not become a qualified service provider, and allows the department to require an applicant to undergo an evaluation to ensure the applicant is capable of being a qualified service provider.

Section 75-03-23-08 is amended to allow a qualified service provider's status as a qualified service provider to be terminated or an application to become a qualified service provider to be denied if the qualified

service provider or the applicant is not capable of providing care, if the qualified service provider or the applicant has been the subject of a child abuse and neglect assessment that resulted in a services required decision, if the qualified service provider has not billed for any services within twelve months, or if the applicant previously was terminated for inactivity and either does not have a private pay client or has not provided a valid reason for the inactivity.

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 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, December 28, 2015.

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 9th day of November, 2015.



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

November 9, 2015

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-23
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

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-03-23, 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. 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 December 28, 2015.

The department has scheduled an oral hearing for December 15, 2015. 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 "Maggie D. Anderson".

Maggie D. Anderson,
Executive Director

MDA/rs

Attachments

cc: Vonette Richter, Legislative Council
Nancy Nikolas Maier, Medical Services