

**CHAPTER 75-02-13
FAMILY PAID CAREGIVER PROGRAM**

Section

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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. "Department" means the department of health and human services.
4. "Extraordinary care" means care 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. "Family caregiver" means a legally responsible individual who lives with and provides daily care to an eligible participant.
6. "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. "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.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

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 The department may declare an application withdrawn if the applicant or legally responsible individual fails to submit all required documentation or information within thirty days of the department's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 extraordinary care; and
- d. The requirements of section 75-02-13-03 are met.

History: Effective April 1, 2024.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

75-02-13-03. Administration.

- 1. Eligible participants supported under this chapter may not exceed one hundred twenty individuals or 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 receiving the application, the department shall request that the applicant or legally responsible individual complete the department-approved assessment to determine if the applicant meets the extraordinary care requirement.
- 4. Upon approval of 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 department shall conduct face-to-face visits in the eligible participant's home at a minimum of every six months.
- 6. 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.
- 7. 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.
- 8. Funds are not available until the department approves the application and issues an authorization.

History: Effective April 1, 2024.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

75-02-13-04. Denials - Revocations - Terminations - Appeals.

- 1. The department shall issue a written notice to an applicant, eligible participant, or a legally responsible individual if the department denies, revokes, or terminates.
- 2. The department shall include the reason for the denial, revocation, or termination and shall inform the applicant, eligible participant, or legally responsible individual of the right to appeal the denial, revocation, or termination, if applicable.

3. An application may be denied, revoked, or terminated under the terms and conditions of this chapter or North Dakota Century Code section 50-24.1-47.
4. An applicant, eligible participant, or legally responsible individual may appeal a denial, revocation, or termination of an application or authorization under this chapter. An appeal under this section must be made in writing within thirty days of the date of the notice issued under this section. The applicant, eligible participant, or legally responsible individual shall submit the written request for an appeal and hearing under chapter 75-01-03 and North Dakota Century Code chapter 28-32 to the appeals supervisor for the department.
5. An applicant, eligible participant, or legally responsible individual may not appeal:
 - a. A denial, revocation, termination, or reduction in payment resulting from exhausting or exceeding the limits of legislative appropriations for the family paid caregiver program;
 - b. A denial, revocation, or termination of an application or authorization under this chapter if the applicant is no longer eligible for a Medicaid 1915(c) waiver at the time of the denial, revocation, or termination; or
 - c. An application that has been withdrawn.
6. A family caregiver is not entitled to payment upon notice of revocation or termination to the eligible participant or legally responsible individual or during an appeal.

History: Effective April 1, 2024.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47