

**CHAPTER 75-04-02**  
**PURCHASE OF SERVICE FOR DEVELOPMENTALLY DISABLED PERSONS**

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**75-04-02-01. Purchase of service.**

The department may purchase services only from licensed providers in compliance with the requirements of this chapter.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

**75-04-02-02. Fiscal requirement.**

Providers shall submit, no less than annually, a full financial disclosure including, but not limited to:

1. A statement of assets and liabilities.
2. An operations statement.
3. A statement disclosing contract income and client wages.
4. A statement of client fees or payments and their distribution.
5. A statement showing the distribution of historical costs and a forecast of future costs.
6. A statement of the assets and liabilities of any related organizations.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

**75-04-02-03. Insurance and bond requirements.**

Repealed effective May 1, 2004.

**75-04-02-04. Disclosure of ownership and interest.**

Repealed effective May 1, 2004.

**75-04-02-05. Payments to members of governing boards restricted.**

Repealed effective June 1, 1985.

**75-04-02-06. Payments to related organizations restricted.**

1. Payments, to related organizations, by the provider shall be limited to the actual and reasonable cost of the service received or the product purchased.
2. Financial transactions between the provider and the related organization shall be documented by the provider. The terms of such transactions shall be those which would be obtained by a prudent buyer negotiating at arms length with a willing and knowledgeable seller.

**History:** Effective April 1, 1982; amended effective June 1, 1985.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

**75-04-02-07. Articles and bylaws of provider.**

1. The articles, bylaws, or constitution of the provider shall identify developmentally disabled persons as eligible recipients of the provider's services and the provisions of those services as a purpose of the organization.
2. The articles, bylaws, or constitution of the provider shall authorize the governing board to enter into contracts, agreements, or any other arrangement to secure funds to provide services consistent with the provider's purpose.
3. The provider's dissolution provisions shall provide that the assets of the organization, which have been purchased, in whole or in part, with funds loaned or granted by the state or with the state's necessary approval, shall inure to the benefit of developmentally disabled persons and shall further provide that such assets shall be transferred subject to the approval of the department.

**History:** Effective April 1, 1982; amended effective August 1, 1984.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

**75-04-02-08. Providers policies and procedures.**

The department may require a provider to submit a statement of policies and procedures, and evidence of the implementation of the statement, in order to facilitate a determination that the provider is in compliance with the rules of the department and with North Dakota Century Code section 25-01-01.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

**75-04-02-09. Recording and reporting abuse, neglect, and use of restraint.**

Repealed effective May 1, 2004.

**75-04-02-10. Wages of developmentally disabled persons.**

Repealed effective May 1, 2004.

**75-04-02-11. Access to provider premises and records.**

The provider shall authorize the department's entry to its facilities and access to its records, in the event the provider declares bankruptcy, transfers ownership, ceases operations, evicts residents of its facilities, or the contract with the department is terminated by either of the parties, for the purpose of facilitating the orderly transfer of clients to an alternative service or the maintenance of appropriate service until an orderly transfer can be made.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-01.2-18, 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-01.2-03, 25-16-10

**75-04-02-12. Lobbying and political activity.**

Providers shall not utilize funds provided by or through the department to support lobbying, political candidates, or political activity.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

**75-04-02-13. Indemnification.**

Contracting providers may be required to indemnify and reimburse the department for any federal funds, the expenditure of which is disallowed as a consequence of the provider's failure to establish and maintain adequate records or the provider's failure to otherwise comply with written standards, rules and regulations, or statutes.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

**75-04-02-14. Grievance procedure.**

1. Providers shall submit to the department, for review and approval, a copy of a grievance procedure, approved by the governing board, which affords the developmentally disabled person, or that person's parents, guardian, or advocate, a fair hearing of any complaint.
2. The provider shall maintain a record of all hearings provided pursuant to its grievance procedure, and shall note therein the complaint, persons complaining, and the resolution of the grievance.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-01.2-18, 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-01.2-18, 25-16-10

**75-04-02-15. Property management and inventory.**

1. The provider shall establish and maintain policies and procedures for the management and maintenance of property and equipment purchased or depreciated with state funds.
2. An inventory of property and equipment meeting the description of subsection 1 shall be separately maintained and identified by serial number and descriptions.

3. The provider shall make the records, and items identified in them, available for inspection by the department upon request to facilitate a determination of the adequacy with which the applicant is managing property and equipment.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

#### **75-04-02-16. Accounting for funds.**

The provider shall establish and maintain financial records consistent with generally accepted accounting principles and the financial reporting requirements of the department.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

#### **75-04-02-17. Rate of reimbursement.**

1. The provider shall be reimbursed for services to a developmentally disabled person on the basis of reasonable cost.
2. The rate of reimbursement shall be established pursuant to the applicable provisions of the manual for provider reimbursement of the department.
3. The applicant shall be subject to a financial audit pursuant to the provisions of the manual for provider reimbursement of the department.
4. The denial of access to financial records for audit purposes shall constitute a breach of a contract with the department.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-16-10

#### **75-04-02-18. Case management.**

Providers shall establish policies and procedures regarding admission to their services and termination of services in conformance with the North Dakota case management system.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 25-01.2-18, 25-16-06, 50-06-16

**Law Implemented:** NDCC 25-01.2-18, 25-16-10