

**BEFORE THE  
ADMINISTRATIVE RULES COMMITTEE  
OF THE  
NORTH DAKOTA LEGISLATIVE COUNCIL**

**N.D. Admin. Code Chapter )  
75-02-05, Provider Integrity )  
(Pages 143-160) )**

**REPORT OF THE  
DEPT. OF HUMAN SERVICES  
June 14, 2012**

.....

For its report, the North Dakota Department of Human Services states:

1. The proposed amendments to N.D. Admin. Code chapter 75-02-05 are not related to statutory changes made by the Legislative Assembly.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department of Human Services uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing. The Department conducts public hearings on all substantive rulemaking. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together

with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on April 3, 2012. The record was held open until 5:00 p.m. on April 13, 2012, to allow written comments to be submitted. No comments were received. The "Summary of Comments" is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$1,911.70.
6. The proposed rules amend chapter 75-02-05. The following specific changes were made:

Section 75-02-05-01. Section 75-02-05-01 is amended to clean up outdated language.

Section 75-02-05-02. Section 75-02-05-02 is amended to clean up outdated language.

Section 75-02-05-03. Section 75-02-05-03 is amended to add definitions and clarify existing definitions.

Section 75-02-05-04. Section 75-02-05-04 is amended to clean up outdated language, to establish a seven-year record retention requirement for providers, to clarify the responsibility for costs associated with producing records, and to clarify that providers cannot bill recipients for services rendered if the provider has not followed all Medicaid requirements.

Section 75-02-05-05. Section 75-02-05-05 is being amended to clean up outdated language and to identify that the Medical

Services Division can terminate a provider if the provider is suspended, excluded, terminated or sanctioned by another state's Medicaid program.

Section 75-02-05-06. Section 75-02-05-06 is being amended to clean up outdated language and to further define the investigation process.

Section 75-02-05-07. Section 75-02-05-07 is being amended to clean up outdated language, to incorporate an educational program requirement for applicable providers, to incorporate impositions of sanctions for providers, and to further define the types of sanctions the Medical Services Division may impose on providers.

Section 75-02-05-08. Section 75-02-05-08 is being repealed as the requirements of that section are being incorporated into section 75-02-05-07.

Section 75-02-05-09. Section 75-02-05-09 is being amended to clean up outdated language and to clarify provider appeal rights.

Section 75-02-05-10. Section 75-02-05-10 is being repealed as the requirements of that section are being incorporated into section 75-02-05-07.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.

9. These rules do not have a fiscal impact on state revenues and expenditures, including on any funds controlled by the Department.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were not adopted as emergency (interim final) rules.

Prepared by:

Julie Leer  
Legal Advisory Unit  
North Dakota Department of Human Services  
June 14, 2012