

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

N.D. Admin. Code Section)	<u>REPORT OF THE</u>
75-02-10-05, Eligibility Criteria for)	<u>DEPT. OF HUMAN SERVICES</u>
Aid to Vulnerable Aged, Blind and)	June 10, 2010
Disabled Individuals)	
(Pages 380 – 381))	

.....

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

1. The proposed amendment to N.D. Admin. Code chapter 75-02-10 is the result of 2009 House Bill 1012 which included an appropriation for the personal needs allowance for individuals residing in a basic care facility, effective January 1, 2010.
2. The proposed amendments to N.D. Admin. Code chapter 75-02-10 are not related to any 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 boards, 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 rule-making. 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 February 11, 2010. The record was held open until 5:00 p.m. on February 22, 2010, to allow written comments to be submitted. A summary of the comment received 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 \$1908.00.
6. The rule change is necessary to comply with an appropriations measure passed in 2009 House Bill 1012. The following specific change was made:

Section 75-02-10-05. This section is amended to reflect the increase in the personal needs allowance for individuals in basic care facilities from sixty dollars to eighty-five dollars.
7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule 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. A constitutional takings assessment was prepared and is attached to this report.
10. These rules were adopted as emergency (interim final) rules under N.D.C.C. section 28-32-03. The statutory ground for declaring the rules to be an emergency is that they are reasonably necessary to avoid a delay in implementing an appropriations measure. A copy of the Governor's approval of the emergency status of the rules is attached.

Prepared by:

Julie Leer
Legal Advisory Unit
North Dakota Department of Human Services
June 10, 2010