

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

N.D. Admin. Code Chapter)	
75-02-02.1, Eligibility for)	<u>REPORT OF THE</u>
Medicaid)	<u>DEPT. OF HUMAN SERVICES</u>
(Pages 362-394))	March 11, 2014

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

1. The proposed amendments to N.D. Admin. Code chapter 75-02-02.1 are necessary to comply with 2013 House Bill No. 1232 and 2013 House Bill No. 1012.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department of Human Services (Department) 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 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 December 27, 2013. The record was held open until 5:00 p.m. on January 6, 2014, 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 \$2,204.72.
6. The proposed rules amend chapter 75-02-02.1. The following specific changes were made:
 - Section 75-02-02.1-28. Section 75-02-02.1-28 is amended to correct a typo, reflect eligibility requirements enacted in 2013 House Bill No. 1232 regarding the value of an irrevocable burial arrangement, and to exempt funds held in a qualified individual retirement account from medicaid eligibility considerations.
 - Section 75-02-02.1-32. Section 75-02-02.1-32 is amended to add language regarding mineral interests in eligibility determinations and to clarify valuation of contractual right to receive money payments.
 - Section 75-02-02.1-33.2. Section 75-02-02.1-33.2 is amended to clarify the criteria for establishing the period of medicaid ineligibility resulting from a disqualifying transfer.

Section 75-02-02.1-40. Section 75-02-02.1-40 is amended to increase the income level to sixty-five dollars per month for individuals in a nursing facility and for an institutionalized spouse with an ineligible community spouse, as provided within 2013 House Bill No. 1012.

Section 75-02-02.1-43. Section 75-02-02.1-43 is created to address the treatment of payments for services by the attorney-in-fact in assessing an individual's eligibility.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed amendments are 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. The anticipated fiscal impact resulting from the implementation of the changes to section 75-02-02.1-40 of the proposed amendments is \$1,118,175, of which \$594,512 is the general fund impact. This impact is reflected in the Department's 2013-2015 Budget. There is no anticipated fiscal impact resulting from the implementation of the other proposed amendments.
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:

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