

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

**N.D. Admin. Code Chapters)
75-03-38, Autism Spectrum)
Disorder Voucher Program,)
75-03-39, Autism Services)
Waiver, and 75-04-06,)
Eligibility for Intellectual)
Disabilities-Developmental)
Disabilities Case Management)
Services)
(Pages 293-297))**

**REPORT OF THE
DEPT. OF HUMAN SERVICES**

June 11, 2014

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

1. The proposed creation of N.D. Admin. Code chapters 75-03-38 and 75-03-39, and the proposed amendments to N.D. Admin. Code chapter 75-04-06 are related to statutory changes made by the Legislative Assembly in 2013 House Bill No. 1038. The Department requested an extension to delay implementation of these rules until July 1, 2014.
2. These rules are not related to changes in a federal statute or regulation.
3. The 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 of 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 April 2, 2014. The record was held open until 5:00 p.m. on April 14, 2014, to allow written comments to be submitted. Two sets of written 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 \$2,302.98.
6. The proposed rules create chapters 75-03-38 and 75-03-39 and amend chapter 75-04-06. The following specific changes were made:

Chapter 75-03-38. Chapter 75-03-38 is created to establish the definitions; the eligibility requirements; the application process, including review, approval, and denial of an application; and the appeals process for the autism spectrum disorder voucher pilot project. (Section 75-03-38-01 was further amended in response to a comment received.)

Chapter 75-03-39. Chapter 75-03-39 is created to define

eligibility for services under the autism spectrum disorder birth through seven medicaid waiver.

Section 75-04-06-06. Section 75-04-06-06 is repealed to remove eligibility for autism waiver services from the developmental disabilities program, in conjunction with the creation of chapter 75-03-39.

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 expected fiscal impact resulting from the implementation of proposed chapter 75-03-38 on the Autism Spectrum Disorder Voucher Program is \$539,186 in general fund dollars as stated in the appropriation clause to 2013 House Bill No. 1038. There is no anticipated fiscal impact resulting from the creation of chapter 75-03-39, the Autism Services Waiver chapter, or the amendment to chapter 75-04-06.
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 11, 2014