

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

N.D. Admin. Code Chapter)	<u>REPORT OF THE</u>
75-02-02, Medical Services)	<u>DEPT. OF HUMAN SERVICES</u>
(Pages 153-167))	December 5, 2016

.....

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

1. The proposed amendments to N.D. Admin. Code chapter 75-02-02 are necessary to comply with 2015 Senate Bill Nos. 2043 and 2046. The Department previously requested and received an extension on September 15, 2015, from the Administrative Rules Committee to adopt final rules in response to 2015 Senate Bill Nos. 2043 and 2046.
2. These rules are related to changes in a federal statute or regulation, specifically the Medicaid Program; Covered Outpatient Drugs final rule.
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 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 September 8, 2016. The record was held open until 5:00 p.m. on September 19, 2016, to allow written comments to be submitted. No one attending the public hearing provided comments. One written comment was received within the comment period. 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 \$2,471.33.
6. The proposed rules amend chapter 75-02-02. The following specific changes are made:
 - Section 75-02-02-03.2. Section 75-02-02-03.2 is amended to change the definition of "psychological service" to "behavior health service" to clarify the practitioners that are included within this group in response to 2015 Senate Bill No. 2046.
 - Section 75-02-02-08. Section 75-02-02-08 is amended to add community paramedic services in response to 2015

Senate Bill No. 2043 and clarify physician-administered drug reimbursement as a result of a final rule adopted by the Centers for Medicare and Medicaid Services.

Section 75-02-02-09.1. Section 75-02-02-09.1 is amended to remove reference to copayments for non-emergent use of the emergency room and update language as a result of the changes in Section 75-02-02-03.2 changing "psychological service" to "behavioral health service" in response to 2015 Senate Bill No. 2046.

Section 75-02-02-09.4. Section 75-02-02-09.4 is amended to remove the reference to school based services and limitations on services to children, update language as a result of the changes in Section 75-02-02-03.2 changing "psychological service" to "behavioral health service" in response to 2015 Senate Bill No. 2046, and clarify limitations on behavioral health services.

Section 75-02-02-29. Section 75-02-02-29 is amended to update language as a result of the changes in Section 75-02-02-03.2 changing "psychological service" to "behavioral health service" in response to 2015 Senate Bill No. 2046.

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. The anticipated fiscal impact resulting from the implementation of the proposed amendments is \$104,758 (total funds) and \$52,379 (general funds) through June 30, 2017.
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:

Jonathan Alm
Legal Advisory Unit
North Dakota Department of Human Services
December 2, 2016