

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

N.D. Admin. Code Chapter)	<u>REPORT OF THE</u>
75-03-23, Provision of Home and)	<u>DEPT. OF HUMAN SERVICES</u>
Community-Based Services Under)	March 14, 2016
the Service Payments for Elderly)	
and Disabled Program and the)	
Medicaid Waiver for the Aged and)	
Disabled Program)	
(Pages 380-391))	
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For its report, the North Dakota Department of Human Services (Department) states:

1. The proposed amendments to N.D. Admin. Code chapter 75-03-23 are necessary to comply with 2015 Senate Bill Nos. 2050 and 2081.
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 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 15, 2015. The record was held open until 5:00 p.m. on December 28, 2015, to allow written comments to be submitted. No one attended or provided comments at the public hearing. No written comments were 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 \$2,470.80.
6. The proposed rules amend chapter 75-03-23. The following specific changes are made:

Section 75-03-23-02. Section 75-03-23-02 is amended to provide eligibility for home and community-based services for an applicant based on estimated monthly benefits or for an individual who is receiving a service not available under Medicaid or the Medicaid waiver, as required under 2015 Senate Bill No. 2050.

Sections 75-03-23-05 and 75-03-23-06, and subsections 5 and 7 of section 75-03-23-07. Sections 75-03-23-05 and 75-03-23-06, and subsections 5 and 7 of section 75-03-23-07 are amended to change references to “adult family foster care” to “adult foster care” as required under 2015 Senate Bill No. 2081.

Section 75-03-23-07. Section 75-03-23-07 is amended to remove certain offenses from the list of criminal offenses that prevent an applicant from being a qualified service provider, to address when an applicant who was the subject of a child abuse and neglect assessment that resulted in a services required decision may or may not become a qualified service provider, and allows the department to require an applicant to undergo an evaluation to ensure the applicant is capable of being a qualified service provider.

Section 75-03-23-08. Section 75-03-23-08 is amended to allow a qualified service provider’s status as a qualified service provider to be terminated or an application to become a qualified service provider to be denied if the qualified service provider or the applicant is not capable of providing care, if the qualified service provider or the applicant has been the subject of a child abuse and neglect assessment that resulted in a services required decision, if the qualified service provider has not billed for any services within twelve months, or if the applicant previously was terminated for inactivity and either does not have a private pay client or has not provided

a valid reason for the inactivity.

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 \$40,200 in general fund dollars as set forth in the 2015 Senate Bill No. 2050 Fiscal Note Requested by Legislative Council dated March 25, 2015.
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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March 10, 2016