

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

N.D. Admin. Code Chapter)	<u>REPORT OF THE</u>
75-02-06, Ratesetting for Nursing)	<u>DEPT. OF HUMAN SERVICES</u>
Facilities, and Chapter 75-02-07.1,)	December 10, 2009
Ratesetting for Basic Care)	
Facilities)	
(Pages 189 – 196))	

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

1. The proposed amendments to N.D. Admin. Code chapters 75-02-06 and 75-02-07.1 are the result of 2009 HB 1012 which provided a rate increase for salaries and benefits for employees of nursing facilities and basic care facilities, and provided a per bed limit increase effective July 1, 2009 for renovation and construction of nursing facilities.
2. The proposed amendments to N.D. Admin. Code chapters 75-02-06 and 75-02-07.1 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 August 12, 2009. The record was held open until 5:00 p.m. on August 24, 2009 to allow written comments to be submitted. None were received. A 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 \$1,997.04.
6. The rules address appropriations measures passed by the Legislative Assembly in 2009. The following specific changes were made:

Section 75-02-06-03. This section is amended to recognize the increase in the per bed cost limitations for construction and renovation of nursing facilities occurring after July 1, 2009.

Section 75-02-06-16.2. This section is created to provide a one-time salary and benefit increase for employees of nursing facilities, effective July 1, 2009.

Section 75-02-07.1-26. This section is amended to provide a salary and benefit increase for employees of basic care facilities,

effective July 1, 2009.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule 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. 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:

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