

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

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| N.D. Admin. Code Chapter |) | <u>REPORT OF THE</u> |
| 75-02-07.1, Ratesetting for |) | <u>DEPT. OF HUMAN SERVICES</u> |
| Basic Care |) | September 12, 2011 |
| (Pages 29-65) |) | |

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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 75-02-07.1 are not related to statutory changes made by the Legislative Assembly.
2. These rules are not related to changes in a 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 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 June 16, 2011. The record was held open until 5:00 p.m. on June 27, 2011, to allow written comments to be submitted. A summary of the comments received 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 \$2,156.52.
6. The proposed rules amend chapter 75-02-07.1. The following specific changes were made:

Section 75-02-07.1-01. Section 75-02-07.1-01 is amended to revise the definition of "adjustment factor", "depreciation guidelines", "facility", "in-house resident day", "institution for mental disease", "limit rate", "personal care rate", "resident day", "room and board rate", "routine hair care", and "specialized facility for individuals with mental disease", and to delete the definition for "statewide minimum room and board rate."

Section 75-02-07.1-02. Section 75-02-07.1-02 is amended to allow a cost report to be filed based on a June thirtieth report year.

Section 75-02-07.1-04. Section 75-02-07.1-04 is amended

to clarify outdated language.

Section 75-02-07.1-06. Section 75-02-07.1-06 is amended to clarify cost categories included in direct care costs and to clarify existing language.

Section 75-02-07.1-09. Section 75-02-07.1-09 is amended to identify salary cost categories consistent with proposed amendments to 75-02-07.1-06.

Section 75-02-07.1-14. Section 75-02-07.1-14 is amended to increase the maximum salary for top management personnel, to clarify existing language, and to remove the subsection identifying how to calculate the increase in the consumer price index.

Section 75-02-07.1-15. Section 75-02-07.1-15 is amended to identify per bed cost limitations to be used to determine total allowable cost basis of buildings and fixed equipment for certain facilities.

Section 75-02-07.1-20. Section 75-02-07.1-20 is amended to identify rates used to establish the facility's room and board rate and to remove the provision relative to the impact of the statewide room and board rate on the actual room and board rate and the personal care rate.

Section 75-02-07.1-21. Section 75-02-07.1-21 is amended to identify that the adjustment factor will be used to adjust certain costs and how costs reported for a period other than twelve months will be adjusted.

Section 75-02-07.1-22. Section 75-02-07.1-22 is amended to remove all but the first subsection relative to rate limitations.

Section 75-02-07.1-24. Section 75-02-07.1-24 is amended to clarify existing language in subsection 2.

Section 75-02-07.1-25. Section 75-02-07.1-25 is amended to clarify deadlines for filing cost reports.

Section 75-02-07.1-26. Section 75-02-07.1-26 is amended to require the department to increase rates as established within this chapter or as approved by the legislative assembly.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed 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. These rules do not have a fiscal impact on state revenues and expenditures, including on any funds controlled by the Department.
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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