

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

**N.D. Admin. Code Chapter)
75-04-05, Reimbursement)
for Providers of Services to)
Individuals with Developmental)
Disabilities)
(Pages 294-306))**

**REPORT OF THE
DEPT. OF HUMAN SERVICES
December 12, 2012**

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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 75-04-05 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 (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 July 17, 2012. The record was held open until 5:00 p.m. on July 27, 2012, to allow written comments to be submitted. One comment was 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 \$2,106.08.
6. The proposed rules amend chapter 75-04-05. The following specific changes were made:
 - Section 75-04-05-01. Section 75-04-05-01 is amended to reflect the definition of "movable equipment" is moved from another section and placed in the definitions section.
 - Section 75-04-05-09. Section 75-04-05-09 is amended to include timelines for the Department to respond to a request for reconsideration; to increase the time within which a provider may request reconsideration; to clarify days are calendar days; and to clarify existing language.
 - Section 75-04-05-15. Section 75-04-05-15 is amended to increase historical cost of a depreciable asset from \$1,000 to \$5,000 per depreciable asset and to clarify existing language.
 - Section 75-04-05-24. Section 75-04-05-24 is amended to reflect the changes to section 75-04-05-01.

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. These rules are expected to have a fiscal impact for SFY 2013 of \$613,173, of which \$290,491 is state general fund. Currently, costs are depreciated over a several-year period. This rule change allows costs to be claimed entirely in the first year. As a result, year one shows a fiscal impact, but there are no additional costs over the original several-year depreciation period.
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
December 12, 2012