

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

<b>N.D. Admin. Code Chapter</b>	)	<b><u>REPORT OF THE</u></b>
<b>75-02-04.1, Child Support</b>	)	<b><u>DEPT. OF HUMAN SERVICES</u></b>
<b>Guidelines</b>	)	
	)	<b>December 3, 2018</b>
<b>(Pages 100-114)</b>	)	

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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 75-02-04.1 are not related to statutory changes made by the 2017 Legislative Assembly.
2. These rules are not related to changes in a federal statute or regulation.
3. These rules are necessary, in part, to comply with federal regulations (45 C.F.R. § 302.56(e)) and state law (N.D.C.C. § 14-09-09.7) that require child support guidelines be reviewed at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.
4. 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.

5. No Comments were received at the public hearing held in Bismarck on September 5, 2018. The record was held open until September 17, 2018, to allow written comments to be submitted. One written comment was received with the comment period. A "Summary of Comments" is attached to this report.

6. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$2313.42.

7. The proposed rules amend chapter 75-02-04.1. The following specific changes were made:

**Section 75-02-04.1-01** is amended to revise the calculation for the deduction for the hypothetical federal income tax obligation by removing reference to the personal and dependent exemptions and child tax credit; to revise the calculation for the hypothetical state income tax obligation to eleven percent of the hypothetical federal income tax obligation; and increase the deduction for lodging expenses for employment-related travel within the definition of "net income".

**Section 75-02-04.1-02** is amended to remove language in the general instructions specifying that determination of a child support obligation is appropriate whenever the child and both parents do not reside together and to clarify language regarding parenting time overnights.

**Section 75-02-04.1-08** is amended to clarify that income of the obligor's spouse may not be treated as income to the obligor for child support purposes.

**Section 75-02-04.1-08.1** is amended to revise the threshold for the number of parenting time overnights at which the extended parenting time adjustment becomes applicable and to clarify language regarding parenting time overnights.

**Section 75-02-04.1-09** is amended to create a rebuttal criterion to allow for equalizing the parent's respective obligations in certain situations when the parents have equal residential responsibility for the children.

**Section 75-02-04.1-10** is amended to revise the schedule of amounts to increase the self-support reserve for low-income obligors as well as to reduce the amount due for obligors with net income slightly above the self-support reserve.

8. No written requests for regulatory analysis have been filed by the Governor or by any agency. The impact of the proposed amendments cannot be precisely determined, but they may have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
9. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
10. The fiscal impact of the proposed amendments cannot be precisely

calculated but it may have an impact on the regulated community in excess of \$50,000.

11. A constitutional takings assessment was prepared and is attached to this report.
12. These rules were not adopted as emergency (interim final) rules.

Prepared by:

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November 29, 2018