

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

<b>N.D. Admin. Code Section</b>	)	<b><u>REPORT OF THE</u></b>
<b>75-02-02.1-31, Eligibility for</b>	)	<b><u>DEPT. OF HUMAN SERVICES</u></b>
<b>Medicaid</b>	)	<b>March 9, 2010</b>
<b>(Pages 184-188)</b>	)	

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

1. The proposed amendment to N.D. Admin. Code section 75-02-02.1-31 is in response to 2009 HB 1300 which allows a modified irrevocable trust to continue to be irrevocable under North Dakota Century Code section 59-12-11.
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 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 December 22, 2009. The record was held open until 5:00 p.m. on January 4, 2010, 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 \$1,903.28.
6. The proposed rule amends section 75-02-02.1-31. The following specific change was made:

Section 75-02-02.1-31. Section 75-02-02.1-31 is amended to allow a modified trust to be irrevocable for purposes of determining Medicaid eligibility, if the trust is modified under North Dakota Century Code section 59-12-11.
7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule amendment is 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. A constitutional takings assessment was prepared and is attached to this report.
10. These rules were not adopted as emergency (interim final) rules.

Prepared by:

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March 9, 2010