# Chapter 75-09.1-11
# SUBSTANCE USE DISORDER TREATMENT VOUCHER SYSTEM


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**SECTION 1.** Chapter 75-09.1-11 is created as follows:

**75-09.1-11-01. Definitions.** As used in this chapter, unless the context or subject matter otherwise requires:

1. "ASAM criteria" means the current edition of the criteria of the American society of addiction medicine.

2. "Behavioral health professional" means an individual licensed to practice in North Dakota whose scope of practice includes screening, assessment, and treatment of substance use disorders.

3. "Certified recovery specialist" means a person who has been certified by a recognized training program to provide recovery support services to individuals who have a substance use disorder.

4. "Comprehensive biopsychosocial clinical assessment" means an assessment that integrates information regarding the biological, psychological, and social factors of an individual's life in determining the nature of the individual's substance use disorder and criteria for treatment.

5. "Department" means the North Dakota department of human services.

6. "DSM" means the current edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

7. “Evidence-based practice” means a practice that is approved by the department and:

   a. Appears in a national registry;

   b. Appears in peer review literature as a promising practice; or

   c. Integrates cultural values and has been submitted for review by the department.

8. “Individual” means an individual who meets the identified eligibility criteria for services under the substance use disorder treatment voucher system.

9. “Outcomes measures” means the events or conditions that indicate the effectiveness of the substance use disorder treatment services.

10. “Process measures” means the steps and actions taken to implement the substance use disorder treatment services using evidence-based practices.

11. "Program" means a human being, partnership, association, corporation, or limited liability company that establishes, conducts, or maintains a substance abuse treatment program license in compliance with chapter 75-09.1-01 for the care of individuals with a substance use disorder. "Program" does not include a DUI seminar which is governed by chapter 75-09.1-09.

12. “Public substance use disorder treatment program” means a treatment program that receives funding from this state or federal government to provide substance use disorder treatment and provides that treatment at no cost or at a reduced rate.

13. “Underserved” means an individual who resides in this state, has an annual income no greater than two hundred percent of federal poverty guidelines, and lives in a community in which a public substance use disorder treatment program or the appropriate level of care is not available.

14. “Voucher” means funding issued by the department to a private licensed substance abuse treatment program for the purpose of providing underserved individuals substance use disorder treatment and recovery services.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-02. Application for program participation in the substance use disorder treatment voucher system.** The department shall approve or deny an application within twenty working days of receipt of a complete application. The department may declare an application withdrawn if an applicant fails to submit all required documentation within sixty days of the department's notification to the applicant that the application is incomplete. A complete application includes:

1. A signed application in the form and manner prescribed by the department;

2. A signed agreement pursuant to section 75-09.1-11-05; and

3. Receipt of the program's policies:

   a. Ensuring compliance with chapters 75-09.1-01 and 75-09.1-11;

   b. Ensuring that a screening is completed to determine an individual's need for further assessment of a substance use disorder;

   c. Ensuring that a screening is completed to determine financial eligibility consistent with the individual eligibility criteria in subsection 6 of section 75-09.1-11-07;

   d. Defining specific ASAM level of care services provided through the substance use disorder treatment voucher system;

   e. Ensuring that only appropriately licensed or certified staff are providing the specific level of care service that is being reimbursed through the voucher system;

   f. Identifying evidence-based practices for reimbursement through the substance use disorder voucher system;

   g. Defining specific procedures to ensure reporting of process measures and outcomes measures consistent with department requirements;

   h. Defining and developing specific procedures to ensure timely and accurate billing for services qualifying for reimbursement through the voucher system;

   i. Defining procedures allowing the department access to records;

j. Ensuring participation in training consistent with department requirements; and

k. Ensuring that an individual completes and the program submits a voucher application in the form and manner prescribed by the department.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-03. Program denials and revocations.**

1. A program's application to participate in the voucher system may be denied if:

   a. The program is not currently licensed under chapter 75-09.1-01;

   b. The program is currently operating under a restricted license pursuant to subsection 2 of section 75-09.1-01-03; or

   c. The program's policies submitted to the department in accordance with subsection 3 of section 75-09.1-11-02 fail to ensure compliance with chapters 75-09.1-01 and 75-09.1-11.

2. A program's participation in the voucher system may be revoked for failure to:

   a. Comply with the terms and conditions of the signed agreement between the program and the department;

   b. Comply with licensing standards set forth in chapter 75-09.1-01;

   c. Comply with or enforce the program's policies submitted as required by subsection 3 of section 75-09.1-11-02;

   d. Properly document and submit a request for a substance use disorder treatment voucher as required by section 75-09.1-11-08;

   e. Provide a request for services covered by section 75-09.1-11-06; or

   f. Comply with section 75-09.1-11-13.

3. Payment on a voucher may be denied if:

a. A revocation of the program's participation in the voucher system has occurred prior to the date the service identified on the voucher was provided;

b. The program fails to comply with the terms and conditions of the signed agreement between the program and the department;

c. The program fails to comply with licensing standards set forth in chapter 75-09.1-01;

d. The program fails to comply with or enforce the program's policies submitted as required by subsection 3 of section 75-09.1-11-02;

e. The program does not have a valid substance abuse treatment program license on the date the service identified on the voucher was provided;

f. The program fails to properly document and submit a request for substance use disorder treatment voucher in accordance with section 75-09.1-11-08;

g. The program submits a voucher for a service that is not identified as a service provided under section 75-09.1-11-06;

h. The program submits a voucher for a service that the program is not approved to provide; or

i. The program fails to comply with section 75-09.1-11-13.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-04. Program Review.**

1. A program whose application to participate in or payment through the substance use disorder treatment voucher system is denied or revoked may request a review of the decision by filing, within thirty days of the date of the department's notice of denial or revocation, a written notice with the department which includes a statement of each disputed item and the reason for the dispute.

2. A provider may not request review under this section if the denial or revocation is of a result of an exhaustion of appropriated funds for the substance use disorder treatment voucher system, provider no longer being licensed under article 75-09.1, submission of an invalid voucher, or the provider's application being considered withdrawn.

3. Within thirty days after requesting a review, a provider shall provide to the department all documents, written statements, exhibits, and other written information that supports the request for review.

4. The department shall assign a provider's request for review to someone other than an individual who was involved in the denial or revocation. A provider who has requested review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.

5. The department shall make and issue its final decision within seventy-five days of receipt of the notice of request for review. The department's final decision must conform to the requirements of section 28-32-39. A provider may appeal the final decision of the department to the district court in the manner provided in section 28-32-42, and the district court shall review the department's final decision in the manner provided in section 28-32-46. The judgment of the district court in an appeal from a request for review may be reviewed in the supreme court on appeal by any party in the same manner as provided in section 28-32-49.

6. Upon receipt of notice that the provider has appealed its final decision to the district court, the department shall make a record of all documents, written statements, exhibits, and other written information submitted by the provider, affiliate, or the department in connection with the request for review and the department's final decision on review, which constitutes the entire record. Within thirty days after an appeal has been taken to district court as provided in this section, the department shall prepare and file in the office of the clerk of the district court in which the appeal is pending the original or a certified copy of the entire record, and that record must be treated as the record on appeal for purposes of section 28-32-44.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-05. Agreement required.** The department shall enter an agreement with an eligible program in a form and manner prescribed by the department.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-06. Services qualifying for and reimbursed by the substance use disorder treatment voucher system.** The department shall issue a voucher, if approved under section 75-09.1-11-08, as intent of payment for a specific qualifying service for each of the following services:

1. Screening: A program may submit a request for payment for screening to determine the need for further assessment of a substance use disorder.

2. Assessment: A program may submit a request for payment for a comprehensive biopsychosocial clinical assessment that complies with section 75-09.1-01-14 when an appropriate screening process has been completed, documented, and supports the need. The program shall inform the individual of the option of a voucher. If the assessment does not result in a recommendation for services consistent with ASAM criteria no further vouchers will be issued.

3. Treatment: A program may submit a request for payment for treatment when there is a biopsychosocial clinical assessment that complies with section 75-09.1-01-14 recommending treatment consistent with ASAM criteria, a DSM based substance use disorder, the assessment has been completed within the last six months, and the department has approved the recommendations. The program shall inform the individual of the option of a voucher.

4. Recovery support services: A program may submit a request for payment for recovery support services when the need for those services is documented in a comprehensive biopsychosocial clinical assessment or an updated treatment plan. A voucher for recovery support services may be issued as payment for recovery support services while the individual is awaiting clinical treatment, during clinical treatment, or during extended treatment.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-07. Individual eligibility for a substance use disorder treatment voucher.**

1. The individual completes a voucher application in the form and manner prescribed by the department;

2. The individual resides in North Dakota;

3. The individual is 18 years of age or older;

4. A behavioral health professional has determined the individual is in need of one or more of the services identified in section 75-09.1-11-06;

5. The individual grants the department access to treatment and payment records consistent with the confidentiality requirements found under title

42, Code of Federal Regulations, part 2 and title 45, Code of Federal Regulations, part 164; and

6. The individual meets the underserved criteria and the individual does not have resources to cover any care for treatment and the:

   a. Individual's third party payment resources will not cover all costs for treatment;

   b. Individual has a pending application for medical assistance which presents a barrier to timely access to treatment; or

   c. Individual does not qualify for medical assistance and has no alternative third party payment resources.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-08. Approval of an individual's application and voucher.**

1. A program shall submit the individual's voucher application and proper documentation to the department requesting a substance use disorder treatment voucher for screening, assessment, treatment, or recovery support services. A behavioral health professional acting within the professional's licensed scope of practice or a certified recovery specialist acting consistent with training and certification who is employed by a program approved to participate in the substance use disorder treatment voucher system can provide services under the voucher system. Documentation submitted by the program must be in the form and manner prescribed by the department and must be in compliance with established requirements for each voucher request.

2. An approved substance use disorder voucher must be activated for ninety days. If the service is not initiated within ninety days the voucher will no longer be valid and a new voucher will need to be requested. Vouchers will allow payment at the rate established by the department for the specific ASAM service indicated. A new voucher will have to be activated for each service identified under section 75-09.1-11-06.

3. Within five working days of receiving a request for a voucher, the department shall notify the program submitting the request and the individual completing the application of the application approval. The department shall notify the individual of the programs that provide the specific service covered by the voucher.

**History:** Effective April 1, 2016

**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-09 Denial of substance use disorder treatment voucher.**

1. The department shall notify the program submitting the voucher application and the individual requesting the voucher within five working days of receipt of a request for voucher that the voucher application is denied. The department shall notify the program that submitted the voucher within five working days of a voucher revocation. The department shall deny the individual's voucher application if:

   a. The individual is not eligible pursuant to section 75-09.1-11-07; or

   b. The program submits a voucher application for a service that is not identified as a service provided under section 75-09.1-11-06.

2. The department shall inform the individual requesting the voucher of the reason for the denial and that the individual may appeal the denial.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-10. Appeals of denials of eligibility for substance use disorder treatment voucher.** An individual who has requested a substance use disorder treatment voucher may appeal a decision to deny the voucher. An appeal under this section must be made in writing on a form developed and provided by the department within thirty days of the date of the notice issued under section 75-09.1-11-09. An individual shall submit the written request for an appeal and hearing under North Dakota Century Code chapter 28-32 to the appeals supervisor for the department. An individual may not appeal a denial resulting from an exhaustion of appropriated funds for the substance use disorder treatment voucher system or an invalid voucher.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-11. Exceptions to eligibility rules considered.** An individual or a program on behalf of an individual may request an exception to the eligibility criteria. Exceptions will be considered with regard to an individual meeting the underserved criteria. Exception requests will be reviewed on a case-by-case basis. The department may deny an exception and may revoke an exception granted under this subsection. The decision to deny or revoke an exception is not an appealable decision.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16

**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-12. Process measures and outcomes measures reports required.** Programs receiving payments for services through the voucher system shall collect and report process measures and outcomes measures data to the department as determined by the department.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-13. Reimbursement process.** Voucher system payments will be issued for only those services meeting the ASAM criteria for levels of care and for the specific, unbundled services provided using a standardized rate schedule. The program shall submit requests for voucher system payments to the department and the department shall issue payment after the program submits the reports required in section 75-09.1-11-12.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4

**75-09.1-11-14. Training and technical assistance.** The department shall provide training and technical assistance to all programs that apply to participate in the substance used disorder voucher system. All approved programs shall participate in the following training:

1. The implementation of the substance use disorder voucher system;

2. Determining individual eligibility;

3. The process and documentation required to submit requests for substance use disorder voucher approval;

4. The process and documentation required to submit billing for services that may be paid through the substance use disorder voucher system;

5. Department-approved standards regarding evidence-based practices; and

6. Reporting requirements.

**History:** Effective April 1, 2016
**General Authority:** NDCC 50-06-16
**Law Implemented:** S.L. 2015, ch. 139, § 4