

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

N.D. Admin. Code Chapters)	<u>REPORT OF THE</u>
75-02-02.1 and 75-02-02.2,)	<u>DEPT. OF HUMAN SERVICES</u>
Eligibility for Medicaid and)	June 14, 2016
Children’s Health Insurance)	
Program (Pages 177-188))	

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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 chapters 75-02-02.1 and 75-02-02.2 are not related to statutory changes made by the Legislative Assembly.
2. These rules are related to changes in a federal statute or regulation, specifically the Affordable Care Act, in conjunction with the implementation of the new integrated eligibility Medicaid system.
3. The 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 April 8, 2016. The record was held open until 5:00 p.m. on April 18, 2016, to allow written comments to be submitted. No comments were received. A summary of the 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 \$2,476.68.
6. The proposed rules amend chapters 75-02-02.1 and 75-02-02.2. The following specific changes are made:
 - Section 75-02-02.1-13** is amended to clarify when a newborn child's social security number must be furnished.
 - Section 75-02-02.1-19** is amended to allow the North Dakota Department of Human Services to receive federal financial participation for Medicaid-covered services provided to a Medicaid-eligible inmate of the state penitentiary or county jail who is admitted as an inpatient in a medical institution.

Section 75-02-02.1-24.4 is created to allow hospitals to complete and process hospital presumptive eligibility applications; to establish a hospital presumptive eligibility application process and eligibility requirements; and to establish training requirements, performance standards, and a process if hospitals do not meet performance standards.

Section 75-02-02.1-34.2 is created to add income conversion for individuals subject to a MAGI-based methodology as a monthly amount must be calculated to determine eligibility except during the three month period prior to the month of application as actual income received in those months is counted when determining eligibility.

Section 75-02-02.1-34.3 is created to require the utilization of reasonable compatibility of income to determine initial and ongoing eligibility except for self-employment income.

Subsection 3 of section 75-02-02.2-02 is amended to add language clarifying when the twelve-month eligibility period for a child who is determined eligible for Medicaid ends.

Subsection 8 of section 75-02-02.2-10 is amended to clarify when a newborn child's social security number must be furnished.

Section 75-02-02.2-13.3 is created to require the utilization of reasonable compatibility of income to determine initial and ongoing eligibility except for self-employment income.

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. There is an expected fiscal impact on the Medicaid program that would result from the implementation of 75-02-02.1-24.4, hospital presumptive eligibility; however, any amount is currently unknown as there is no data to indicate the number of individuals that will apply, when they will apply, or what amount of medical costs they will incur. The remaining proposed rules are not expected to have an additional fiscal impact on state revenues and expenditures.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were adopted as emergency (interim final) rules in accordance with subdivision d of subsection 2 of section 28-32-03 of the North Dakota Century Code. Emergency rules were necessary to meet a mandate of federal law, Affordable Care Act, in conjunction with the implementation of the new integrated eligibility Medicaid system. The rules took effect on March 4, 2016.

Prepared by:

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