

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

N.D. Admin. Code Chapters)	<u>REPORT OF THE</u>
75-02-06 and 75-02-07.1,)	<u>DEPT. OF HUMAN SERVICES</u>
Ratesetting for Nursing Home Care)	June 14, 2016
And Ratesetting for Basic Care)	
Facilities (Pages 189-217))	

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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 75-02-06 and 75-02-07.1 are necessary to comply with requirements found in 2015 House Bills No. 1234, 1277, and 1353. The Department previously requested an extension to adopt these rules until July 1, 2016.
The Department, to comply with the budget allotment process, has removed the proposed created section 75-02-07.1-31 along with the amendments initially proposed to sections 75-02-07.1-01, 75-02-07.1-05, 75-02-07.1-08.1, 75-02-07.1-10, and 75-02-07.1-22, as described in the full Notice of Intent to Amend Administrative Rules dated November 4, 2015, and amended the "Summary of Comments" accordingly.
2. These rules are not related to changes in a federal statute or regulation.
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 December 10, 2015. The record was held open until 5:00 p.m. on December 21, 2015, to allow written comments to be submitted. One individual attended the public hearing and provided comment. Three written comments were received within the comment period. The "Summary of Comments" and "Addendum to Summary of Comments" are 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 \$2,615.41.
6. The proposed rules amend chapters 75-02-06 and 75-02-07.1. The following specific changes are made:

Section 75-02-06-01 is being amended to remove basic care facilities from the definitions of “institutional leave day” and “therapeutic leave day” as used for nursing facility ratesetting.

Section 75-02-06-02.1 is being amended to correct an outdated reference and identify the ratesetting manual as a source of ratesetting procedures for nursing facilities.

Section 75-02-06-03 is being amended to update the nursing facility per bed cost limitation on single and double occupancy for the rate year beginning July 1, 2015, as required under 2015 House Bill No. 1234.

Section 75-02-06-10 is being amended to reflect the collection fee may not exceed industry standards for collection agencies and the amount of bad debt.

Section 75-02-06-12 is being amended to restructure subsections 1 and 2, to identify certain sales tax revenue as an offset to cost for nursing facilities as required by 2015 House Bill No. 1277, and to update language.

Section 75-02-06-12.1 is being amended to reflect the changes in section 75-02-06-12 dealing with certain sales tax revenue of a nursing facility as required by 2015 House Bill No. 1277, and to address the changes made to allowable educational costs set forth in 2015 House Bill No. 1353.

Section 75-02-06-16 is being amended to restructure subdivision a of subsection 7 addressing rates for a nursing facility changing ownership.

Section 75-02-06-26 is being amended to remove language that is duplicative of language that exists in the North Dakota Century Code.

Section 75-02-07.1-11 is being amended to restructure subsections 1 and 2, to identify certain patronage dividends credited to a basic care facility as an offset to costs, and to update language.

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. The anticipated fiscal impact resulting from the implementation of the proposed amendments through June 30, 2017, is \$371,280, of which \$46,234 is general fund and \$139,405 is health care trust fund.
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:

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