

**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>75-03-38, Autism Spectrum</b>	)	<b><u>DEPT. OF HUMAN SERVICES</u></b>
<b>Disorder Voucher Program</b>	)	<b>March 4, 2020</b>
<b>(Pages 194-196)</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 75-03-38 are necessary to comply with section 46 of 2019 Senate Bill No. 2012.
2. These rules are not related to a change 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 human service zone directors (formerly known as 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. No comments were received at the public hearing held in Bismarck on December 12, 2019. The record was held open until December 23, 2019, to allow written comments to be submitted. No written comments were received during the comment period. 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 \$2371.98.
6. The rules were amended to clarify and reduce confusion in understanding the voucher process from eligibility to termination, and to make it possible to assist more families in dealing with autism spectrum disorder diagnosis. The following specific changes were made:

**Section 75-03-38-02** is amended to remove the following conditions on participation of a child in the autism spectrum disorder voucher program: that the child has been recommended for voucher support by a qualified professional and that the item or support requested is cost effective in meeting the child's needs. The section is amended to remove language stating that voucher support approved for a child with an autism spectrum diagnosis may not exceed \$12,500 per state fiscal year to section 75-03-38-04. This section is also amended to remove language stating

that the department shall only approve voucher applications based on the voucher slots available.

**Sections 75-03-38-04** is amended to remove language stating that the division may approve a voucher application for one state fiscal year and language stating that division shall review the application for completeness and will determine the child's eligibility for voucher supports. Language from 75-03-38-02 is added here identifying the maximum amount of funding allowed for voucher support annually. The section replaces references to "multiple purchases" with "recurring purchases". Language is added stating that division may approve a voucher request for a one-time purchase or a recurring purchase not to exceed the maximum amount in subsection 1 of section 75-03-38-04 (which currently stands at \$12,500). It then clarifies that the difference between the maximum amount of funding permitted in subsection 1 of section 75-03-38-04 and the amount approved may be used to fund additional voucher requests. The section is amended to change the amount of time to make a purchase from 180 days to 60 days, to ensure items are purchased within a shorter time period. The section also clarifies that voucher funds may not be used for duplicate items or services that address identical deficit goals, except for disposable items. The section also adds language providing that voucher funds may not be used for items that would cause a parent, custodian, or legal guardian to have additional or recurring costs, as well as service animals or emotional support animals and related items. New language also provides that: items or supports requested through the voucher program must be cost-effective in meeting the child's needs; and that voucher funds are not available until the division approves the purchase request form.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The impact of 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. The anticipated fiscal impact resulting from implementation of the proposed amendments is nominal.
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:

Jonathan Alm  
Legal Advisory Unit  
North Dakota Department of Human Services  
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