

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

N.D. Admin. Code Chapter)	<u>REPORT OF THE</u>
75-02-05, Provider Integrity)	<u>DEPT. OF HUMAN SERVICES</u>
)	March 4, 2020
(Pages 184-192))	

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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 75-02-05 are necessary to ensure the rules remain accurate and consistent with state law.
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 5, 2019. The record was held open until December 16, 2019, to allow written comments to be submitted. Two sets of 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 \$2393.82.
6. The following specific changes were made:
Section 75-02-05-03 is amended to add a definition for "loss of contact"; the definition of "suspend payments" was updated for clarity; and the definition of "suspension from participation" was relocated to ensure that definitions are provided in alphabetical order.
Sections 75-02-05-04 is amended to update references from "county social service board" to "human service zone"; to add language referencing the children's health insurance program; and to replace the reference of section 75-02-05-08 in section 75-02-05-04 with 75-02-05-07 as 75-02-05-08 was previously repealed and the requirements of that section were incorporated into section 75-02-05-07.

Section 75-02-05-04.2 is created to outline when the Department may terminate the enrollment of a Medicaid or children's health insurance program provider.

Section 75-02-05-07 is amended to add new language stating that Department may not make payments to a provider who is not complying with a Department directed repayment plan, and also provides that recoveries may be taken across any Medicaid program payment and delivery system. New language also clarifies that when a provider has been excluded from Medicare program, the provider is also terminated or excluded from participation in both the Medicaid and children's health insurance programs. New language is also added referring to a "human service zone".

Section 75-02-05-09 is amended to specify that a provider may appeal a decision to terminate provider enrollment by filing a written appeal with Department within fifteen days of the written notice of termination.

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:

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February 28, 2020