

**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>75-03-23, Provision of Home and</b>  | ) | <b><u>DEPT. OF HUMAN SERVICES</u></b> |
| <b>Community-Based Services Under</b>   | ) | <b>June 9, 2020</b>                   |
| <b>the Service Payments for Elderly</b> | ) |                                       |
| <b>and Disabled Program and the</b>     | ) |                                       |
| <b>Medicaid Waiver for the Aged and</b> | ) |                                       |
| <b>Disabled Program</b>                 | ) |                                       |
| <b>(Pages 846-849)</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 75-03-23, Provision of Home and Community-Based Services under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program, are necessary to comply with 2019 Senate Bill No. 2124.
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, 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 rulemaking. 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 redrafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on March 26, 2020. The record was held open until 5:00 p.m. on April 6, 2020, to allow written comments to be submitted. No one attending the public hearing provided comments. No written comments were received within 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 \$2,357.22.
6. The proposed amendments to N.D. Admin. Code Chapter 75-03-23 are necessary to comply with 2019 Senate Bill No. 2124. The following specific changes were made:  
**Section 75-03-23-01** is amended to add a definition of "Designee" to allow a qualified service provider to enroll to provide case management services for the Medicaid waiver program.

**Section 75-03-23-03** is amended to remove the requirement for the department to provide notice to the department's designee regarding the effective date of the applicant's eligibility for services for the Service Payments for Elderly and Disabled (SPED) program and replace "department's designee" with "department" in compliance with 2019 Senate Bill No. 2124.

**Section 75-03-23-11** is amended to replace "department's designee" with "department or its designee" and to remove the provision that allowed for a review of a decision by the county social service board director or their designee in compliance with 2019 Senate Bill No. 2124.

**Section 75-03-23-15** is amended to replace "department or the department's designee" with "department or it's designee" for consistency purposes.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule 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 the 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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June 4, 2020