

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 510-03 and 510-05

Par. 2. **Effective Date** – Changes included in this manual letter are effective on or after **October 1, 2023** unless otherwise indicated.

Policy Chapter 510-03 (ACA) and 510-05 (Non-ACA)

Updating information for state residency.

1. Basic Factors of Eligibility 510-03-35

State Residence 510-03-35-85

An individual must be a resident of North Dakota to be eligible for Medicaid through this state. A resident of the state is an individual who is living in the state voluntarily and not for a temporary purpose. Temporary absences from the state with subsequent returns to the state, or intent to return when the purpose of the absence has been accomplished, do not interrupt continuity of residence. Residence is retained until abandoned or established in another state.

1. For individuals entering the state, the earliest date of residency is the date of entry. Residence may not be established for individuals who claim residence in another state.

Note: Individuals in receipt of SSI who have a residence address on SOLQ showing a North Dakota address, will be considered a North Dakota resident. If the residence address on SOLQ indicates an out of state address, the application will need to be pended for verification of residence address. In the pending notice, the client must be informed to contact SSA to report the move and update the residence address.

An individual's Medicaid case may remain open in the other state for a period of time after the individual moves. However, most states will not cover out-of-state care. Eligibility may be determined as of the date the individual entered the state.

When an individual leaves the state, eligibility is ended as soon as, and in accordance with, proper notice. North Dakota Medicaid will no

longer extend coverage through the month in which an individual moves out of the state. This information must be documented in the casefile.

2. Individuals under age twenty-one.

- a. For any individual under age twenty-one who is living independently from his parents or who is married and capable of indicating intent, the state of residence is the state where the individual is living with the intention to remain.
- b. For any individual who is receiving foster care or adoption assistance payments, under Title IV-E, from another state and is living in North Dakota, North Dakota is the state of residence for Medicaid purposes.

For children receiving non IV-E foster care assistance payments from another state, the state of residence for Medicaid is the state making the payment unless the Interstate Compact on the Placement of Children (ICPC) indicates which state will cover Medicaid.

Children receiving non-IV-E adoption assistance payments from another state are considered residents of North Dakota for Medicaid purposes if there is an Interstate Compact on Adoption and Medical Assistance (ICAMA) agreement with a member state that indicates that the receiving state will cover the Medicaid. Likewise, children from North Dakota receiving non-IV-E adoption assistance payments who move to another member state may no longer be considered North Dakota residents if the ICAMA agreement indicates that the receiving state will cover the Medicaid. The Children and Family Services division provides zone agencies with information on whether a sending or receiving state is a member state and which state is responsible for the medical coverage per the agreement.

- c. For any individual under age twenty-one not residing in an institution, whose Medicaid eligibility is based on blindness or disability, the state of residence is the state in which the individual is living.
- d. For any other non-institutionalized individual under age twenty-one, the state of residence is the state in which the child is living with the

child's parent or another caretaker relative on other than a temporary basis. A child is normally considered to be living in the state temporarily if:

- i. The child comes to North Dakota to receive an education, special training, or services in the Anne Carlson School, maternity homes, vocational training centers, etc. if the intent is to return to the child's home state upon completion of the education or service;
 - ii. The child is placed by an out-of-state court into the home of relatives or foster parents in North Dakota on other than a permanent basis or on other than an indefinite period; or
 - iii. The child entered the state to participate in Job Corps or other specialized services if the intent is to return to the child's home state upon completion of the activity or service.
- e. For any institutionalized individual under age twenty-one, who is neither married nor living independently, residence is that of the parents or legal guardian at the time of placement or the state of residence of the parent or legal guardian at the time of Medicaid application if the child is institutionalized in the same state. Only if the parental rights have been terminated, and a guardian or custodian appointed, may the residence of the guardian or custodian be used. If the individual has been abandoned by his parents and does not have a guardian, the individual is a resident of the state in which the individual lives.
3. For students entering the state to attend school full time and are between the ages of 18 and 22 (including the month the child attains age 22), who apply for ~~ACA~~ Medicaid on their own behalf, are considered North Dakota residents if the individual intends to remain in North Dakota when their education has been completed. Individuals who do not intend to remain in North Dakota when their education has been completed are considered residing in the state temporarily and are not considered a resident of North Dakota.
4. Individuals age twenty-one and over:

- a. For any individual not residing in an institution, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period or is entering the state with a job commitment or seeking employment.

The state of residence, for Medicaid purposes, of migrants and seasonal farm workers is the state in which they are living due to employment or seeking employment.

- b. For an institutionalized individual who became incapable of indicating intent before age twenty-one, the state of residence is that of the parent or guardian making application, at the time of placement or, if the individual is institutionalized in that state, at the time of application. If the individual has no guardian, the application is not made by either parent, and the placement was not made by another state, the state of residence is the state in which the individual is physically present.
- c. For any other institutionalized individual, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period.

5. An "individual incapable of indicating intent" means one who:

- a. Has an intelligence quotient of forty-nine or less, or a mental age of seven or less, based upon tests acceptable to the Division of Behavioral Health under the Department of Health and Human Services;
- b. Has been found by a court of competent jurisdiction to be an incapacitated person as defined in subsection 2 of North Dakota Century Code section 30.1-26-01;
- c. Has been found by a court of competent jurisdiction to be legally incompetent; or
- d. Is found incapable of indicating intent based on medical documentation obtained from a physician or surgeon, clinical psychologist, or other person licensed by the state in the field of mental retardation.

6. Individuals placed in out-of-state institutions by a state agency retain residence in that state regardless of the individual's indicated intent or ability to indicate intent. State residence ends, however, when the competent individual leaves the facility in which the individual was placed by the state. Providing information about another state's Medicaid program or about the availability of health care services and facilities in another state, or assisting an individual in locating an institution in another state, does not constitute a state placement.

State agencies include human service centers, the Division of Juvenile Services, special education, zone offices, and the Department of Health and Human Services. Tribal entities and hospital social workers or other staff are not state agencies.

7. For any individual receiving a state supplemental payment, the state of residence is the state making the payment.
8. If an interstate reciprocal residency agreement has been entered into between this state and another state pursuant to 42 CFR 435.403(k), the state of residence of the individual is the state determined under that agreement.

North Dakota has an interstate reciprocal residency agreement with nine states. The agreement provides that individuals of any age institutionalized in one of these states are considered a resident of the state in which they are institutionalized.

The states with whom we have the agreement are:

California	New Mexico	Tennessee
Kentucky	Ohio	Texas
Wisconsin	Pennsylvania	

North Dakota also has a specific agreement with the State of Minnesota. The agreement states that individuals who enter a nursing facility in the other state remain a resident of the state they were a resident of prior to admission into the nursing facility for 24 months following admission, and if the individual has a community spouse, they continue to be a resident of

the state the community spouse lives in beyond the 24 month time limit. This agreement terminates at the point the individual is discharged from a nursing facility unless the individual is being transferred to a different nursing facility.

9. When two or more states cannot agree which state is the individual's state of residence, the state of residence is the state in which the individual is physically present.
10. North Dakota residents will be provided Medicaid outside the state when:
 - a. It is a general practice for residents of a particular locality to use medical resources outside the state;
 - b. The availability of medical resources requires an individual to use medical facilities outside the state for short or long periods. Prior approval from the Medical Services Division must be obtained when an individual is being referred for out-of-state medical services.

Transportation for approved out-of-state medical services will be arranged jointly by the individual and the Customer Support Center.
 - c. Individuals are absent from the state for a limited period of time to receive special services or training;
 - d. It is an emergency situation; and
 - e. Services are received during an eligible period but prior to application.

~~State Residence 510-03-35-85~~

~~An individual must be a resident of North Dakota to be eligible for Medicaid through this state. A resident of the state is an individual who is living in the state voluntarily with the intention to remain there permanently or for an indefinite period (not a temporary purpose), or is entering the state with a job commitment or seeking employment. Temporary absences from the state with subsequent returns to the state, or intent to return when the purpose of the absence has been accomplished, do not interrupt continuity of residence. Residence is retained until abandoned or established in another state.~~

- ~~1. For individuals entering the state, the earliest date of residency is the date of entry. Residence may not be established for individuals who claim residence in another state.~~

~~An individual's Medicaid case may remain open in the other state for a period of time after the individual moves, however, most states will not cover out-of-state care so eligibility may be determined as of the date the individual entered the state. If the other state will pay for the care in North Dakota, wait to open the case until the other state stops the coverage.~~

~~**Note:** If the only reason the other state will not pay for the medical care is due to a North Dakota provider failing to register as a provider in that state, we must wait to open the case in North Dakota until the other state ends the individual's coverage.~~

~~Likewise, when an individual leaves the state, eligibility is ended as soon as, and in accordance with, proper notice. North Dakota Medicaid will no longer extend coverage through the month in which an individual moves out of the state. This information must be documented in the casefile.~~

- ~~2. For students entering the state to attend school full time and are between the ages of 18 and 22 (including the month the child attains age 22), who apply for ACA Medicaid on their own behalf, are considered North Dakota residents if the individual intends to remain in North Dakota when their education has been completed. Individuals who do not intend to remain in North Dakota when their education has been completed are considered to be residing in the state temporarily and are not considered a resident of North Dakota.~~

~~**Note:** For students under age 18 policy outlined in #3 and #4 below applies.~~

- ~~3. Individuals under age 21:~~

- ~~a. For any individual under age twenty one who is married and capable of indicating intent, the state of residence is the state where the individual is living, with the intention to remain.~~
- ~~b. Children receiving non-IV-E adoption assistance payments from another state are considered residents of North Dakota for Medicaid~~

- ~~purposes if there is an Interstate Compact on Adoption and Medical Assistance (ICAMA) agreement with a member state that indicates that the receiving state will cover the Medicaid. Likewise, children from North Dakota receiving non-IV-E adoption assistance payments who move to another member state may no longer be considered North Dakota residents if the ICAMA agreement indicates that the receiving state will cover the Medicaid. The Children and Family Services division provides county agencies with information on whether a sending or receiving state is a member state and which state is responsible for the medical coverage per the agreement.~~
- ~~4. For any other non-institutionalized individual under age 21, the state of residence is the state in which the child is living with the child's parent or another caretaker relative on other than a temporary basis. A child is normally considered to be living in the state temporarily for reasons that include, but are not limited to the following:~~
- ~~a. The child comes to North Dakota to receive services in the Anne Carlson School, maternity homes, etc. if the intent is to return to the child's home state upon completion of the service;~~
 - ~~b. The non-IV-E foster child is placed by an out-of-state court into the home of relatives or foster parents in North Dakota on other than a permanent basis or on other than an indefinite period; or~~
 - ~~c. The child entered the state to participate in specialized services if the intent is to return to the child's home state upon completion of the activity or service. (Specialized services include a temporary stay in a PRTF, TBI facility, etc.)~~
- ~~5. Individuals age 21 and over:~~
- ~~a. For any individual not residing in an institution, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period or is entering the state with a job commitment or seeking employment.~~
- ~~The state of residence, for Medicaid purposes, of migrants and seasonal farm workers is the state in which they are living due to employment or seeking employment.~~

~~b. For an institutionalized individual who became incapable of indicating intent before age twenty-one, the state of residence is that of the parent or guardian making application, at the time of placement or, if the individual is institutionalized in that state, at the time of application. If the individual has no guardian, the application is not made by either parent, and the placement was not made by another state, the state of residence is the state in which the individual is physically present.~~

~~c. For any other institutionalized individual, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period.~~

~~6. An "individual incapable of indicating intent" means one who:~~

~~a. Has an intelligence quotient of forty-nine or less, or a mental age of seven or less, based upon tests acceptable to the Division of Mental Health of the Department of Human Services;~~

~~b. Has been found by a court of competent jurisdiction to be an incapacitated person as defined in subsection 2 of North Dakota Century Code section 30.1-26-01;~~

~~c. Has been found by a court of competent jurisdiction to be legally incompetent; or~~

~~d. Is found incapable of indicating intent based on medical documentation obtained from a physician or surgeon, clinical psychologist, or other person licensed by the state in the field of mental retardation.~~

~~7. Individuals placed in out-of-state institutions by a state agency retain residence in that state regardless of the individual's indicated intent or ability to indicate intent. State residence ends, however, when the competent individual leaves the facility in which the individual was placed by the state. Providing information about another state's Medicaid program or about the availability of health care services and facilities in another state, or assisting an individual in locating an institution in another state, does not constitute a state placement.~~

~~State agencies include human service centers, the Division of Juvenile Services, special education, county social service offices, the Department of Human Services, and the Health Department. Tribal entities and hospital social workers or other staff are not state agencies.~~

~~8. For any individual receiving a state supplemental payment, the state of residence is the state making the payment.~~

~~9. For any individual on whose behalf payments for regular foster care are made, the state of residence is the state making the payment.~~

~~10. If an interstate reciprocal residency agreement has been entered into between this state and another state pursuant to 42 CFR 435.403(k), the state of residence of an affected individual is the state determined under that agreement.~~

~~North Dakota has a specific agreement with the State of Minnesota. The agreement states that individuals who enter a nursing facility in the other state remain a resident of the state they were a resident of prior to admission into the nursing facility for 24 months following admission, and if the individual has a community spouse, they continue to be a resident of the state the community spouse lives in beyond the 24 month time limit. This agreement terminates at the point the individual is discharged from a nursing facility unless the individual is being transferred to a different nursing facility.~~

~~11. When two or more states cannot agree which state is the individual's state of residence, the state of residence is the state in which the individual is physically present.~~

~~12. North Dakota residents will be provided Medicaid outside the state when:~~

~~a. It is a general practice for residents of a particular locality to use medical resources outside the state;~~

~~b. The availability of medical resources requires an individual to use medical facilities outside the state for short or long periods. Prior approval from the Medical Services Division must be obtained when an individual is being referred for out-of-state medical services.~~

~~Transportation for approved out-of-state medical services will be arranged jointly by the individual and the county agency.~~

~~c. Individuals are absent from the state for a limited period of time to receive special services or training;~~

~~d. It is an emergency situation; and~~

~~e. Services are received during an eligible period but prior to application.~~

2. Basic Factors of Eligibility 510-05-35

State Residence 510-05-35-85

An individual must be a resident of North Dakota to be eligible for Medicaid through this state. A resident of the state is an individual who is living in the state voluntarily and not for a temporary purpose. Temporary absences from the state with subsequent returns to the state, or intent to return when the purpose of the absence has been accomplished, do not interrupt continuity of residence. Residence is retained until abandoned or established in another state.

1. For individuals entering the state, the earliest date of residency is the date of entry. Residence may not be established for individuals who claim residence in another state.

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2. Individuals under age twenty-one.

- a. For any individual under age twenty-one who is [living independently](#) from his parents or who is married and capable of indicating intent, the state of residence is the state where the individual is living with the intention to remain.
- b. For any individual who is receiving foster care or adoption assistance payments, under [Title IV-E](#), from another state and is living in North Dakota, North Dakota is the state of residence for Medicaid purposes.

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- c. For any individual under age twenty-one not residing in an institution, whose Medicaid eligibility is based on [blindness or](#)

[disability](#), the state of residence is the state in which the individual is living.

- d. For any other non-institutionalized individual under age twenty-one, the state of residence is the state in which the child is living with the child's parent or another caretaker relative on other than a temporary basis. A child is normally considered to be living in the state temporarily if:
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 - e. For any [institutionalized individual](#) under age twenty-one, who is neither married nor living independently, residence is that of the parents or legal guardian at the time of placement or the state of residence of the parent or legal guardian at the time of Medicaid application if the child is institutionalized in the same state. Only if the parental rights have been terminated, and a guardian or custodian appointed, may the residence of the guardian or custodian be used. If the individual has been abandoned by his parents and does not have a guardian, the individual is a resident of the state in which the individual lives.
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residing in the state temporarily and are not considered a resident of North Dakota.

3.4. Individuals age twenty-one and over:

- a. For any individual not residing in an institution, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period or is entering the state with a job commitment or seeking employment.

The state of residence, for Medicaid purposes, of migrants and seasonal farm workers is the state in which they are living due to employment or seeking employment.

- b. For an institutionalized individual who became incapable of indicating intent before age twenty-one, the state of residence is that of the parent or guardian making application, at the time of placement or, if the individual is institutionalized in that state, at the time of application. If the individual has no guardian, the application is not made by either parent, and the placement was not made by another state, the state of residence is the state in which the individual is physically present.
- c. For any other institutionalized individual, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period.

4.5. An "individual incapable of indicating intent" means one who:

- a. Has an intelligence quotient of forty-nine or less, or a mental age of seven or less, based upon tests acceptable to the Division of ~~Mental Behavioral Health of the Department of Human Services under the Department of Health and Human Services~~;
- b. Has been found by a court of competent jurisdiction to be an incapacitated person as defined in subsection 2 of North Dakota Century Code section 30.1-26-01;
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State agencies include human service centers, the Division of Juvenile Services, special education, ~~county social service zone~~ offices, and the Department of Health and Human Services, ~~and the Health Department~~. Tribal entities and hospital social workers or other staff are not state agencies.

- ~~6.7.~~ For any individual receiving a state supplemental payment, the state of residence is the state making the payment.

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8. If an interstate reciprocal residency agreement has been entered into between this state and another state pursuant to 42 CFR 435.403(k), the state of residence of ~~an affected~~the individual is the state determined under that agreement.

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~~9.10.~~ When two or more states cannot agree which state is the individual's state of residence, the state of residence is the state in which the individual is physically present.

~~10.11.~~ North Dakota residents will be provided Medicaid outside the state when:

- a. It is a general practice for residents of a particular locality to use medical resources outside the state;
- b. The availability of medical resources requires an individual to use medical facilities outside the state for short or long periods. Prior approval from the Medical Services Division must be obtained when an individual is being referred for out-of-state medical services.

Transportation for approved out-of-state medical services will be arranged jointly by the individual and the county agency Customer Support Center.

- c. Individuals are absent from the state for a limited period of time to receive special services or training;
- d. It is an emergency situation; and

- e. Services are received during an eligible period but [prior to application](#).