

Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTERS 75-04-01, 75-04-02, 75-04-03, 75-04-05, 75-04-06, AND
75-04-07, DEVELOPMENTAL DISABILITIES
AND SECTION 75-02-02-13.2, MEDICAL SERVICES

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapters 75-04-01, 75-04-02, 75-04-03, 75-04-05, 75-04-06, and 75-04-07, and Section 75-02-02-13.2 at 10:00 a.m. on Monday, September 12, 2016, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapters 75-04-01, 75-04-02, 75-04-03, 74-04-05, 75-04-06, and 75-04-07, and Section 75-02-02-13.2, are necessary to implement the new payment methodology for developmental disabilities service providers, incorporate necessary language as a result of the Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community-Based Services (HCBS) Waivers final rule and remove the reference of mental retardation to align with national changes.

The proposed changes are as follows:

Chapter 75-04-01 is amended as a result of the new payment system and the home and community based services rules. The amendments update definitions; update and clarify language and legal citations; update license requirements; change service descriptions; clarify department's ability to deny or revoke a license; remove the department's ability to suspend a license; add language to expand on the disclosure of criminal record; update and clarify language regarding direct bearing offenses; add language in the area of provisional license; remove the option of a special provisional license; create a provider agreement requirement; update the recording and reporting abuse, neglect, and use of restraint; add language to the applicant guarantees and assurances; update the department's right to enter and inspect; update group home bedroom requirements; and create documentation and data reporting requirements.

Chapter 75-04-02 is being repealed as necessary language from this chapter was added to 75-04-01 and 75-04-05.

Chapter 75-04-03 is being repealed as the loan program is no longer available.

Chapter 75-04-05 is amended as a result of the new payment system. The amendments update definitions including vacancy; update and clarify language

and legal citations; add language to clarify and establish what each component of the new rate structure includes; update a provider agency's eligibility for payment; update financial reporting requirements, including changes to the cost centers section, cost report and statement of cost requirements; change service descriptions; update and modify audit requirements, including changes to the cost and cost limitations section; update the nonallowable cost section; create an assessment process; create a client's right to appeal the assessment; change staff to client ratios to remove all services except of intermediate care facility; remove the methodology for determining staff hours; remove profit-motivated entities – return on investment language; update and clarify depreciation; update and clarify interest expense; update and clarify related organization costs and loan information; update staff-to-client ratios requirements; update the application of this chapter section; and create an indemnification section.

Chapter 75-04-06 is amended to replace “case” management with “program” management and “mental retardation” with “intellectual disability”.

Chapter 75-04-07 is being repealed as the service will no longer exist under the new payment methodology and all remaining necessary language was added to 75-04-01 and 75-04-05.

Section 75-02-02-13.2 is amended to update the developmental disabilities language located in the Medical Services chapter.

The proposed amendments overall are not anticipated to have an impact on the regulated community in excess of \$50,000. The Department was required to create a budget neutral payment system. Some providers may see an increase in financial reimbursement while others may see a reduction in financial reimbursement. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at county social services offices and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments on the proposed rules must be received no later than 5:00 p.m. on September 22, 2016.

ATTENTION PERSONS WITH DISABILITIES: If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the Department of Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 8th day of August, 2016.