

Section 1. Chapter 75-02-13 is created as follows:

**ARTICLE 75-02
ECONOMIC ASSISTANCE**

Chapter	
75-02-01	Aid to Families With Dependent Children [Repealed]
75-02-01.1	Aid to Families With Dependent Children [Repealed]
75-02-01.2	Temporary Assistance for Needy Families Program
75-02-01.3	Child Care Assistance
75-02-02	Medical Services
75-02-02.1	Eligibility for Medicaid
75-02-02.2	Children's Health Insurance Program [Repealed]
75-02-02.3	[Reserved]
75-02-02.4	Home and Community-Based Services Informed Choice Referrals
75-02-03	Homes for Aged and Infirm [Superseded]
75-02-04	Child Support Division
75-02-04.1	Child Support Guidelines
75-02-04.2	State Disbursement Unit
75-02-05	Provider Integrity
75-02-05.1	Nursing Home Sanctions [Repealed]
75-02-05.2	Nursing Facility Enforcement Action
75-02-06	Ratesetting for Nursing Home Care
75-02-07	Provider Reimbursement - Basic Care Facilities [Repealed]
75-02-07.1	Ratesetting for Basic Care Facilities
75-02-08	Homes for the Aged and Infirm [Repealed]
75-02-09	Ratesetting for Psychiatric Residential Treatment Facilities
75-02-10	Aid to Vulnerable Aged, Blind, and Disabled Individuals
75-02-11	Food Stamp Program [Repealed]
75-02-12	Housing Assistance
<u>75-02-13</u>	<u>Family Paid Caregiver Program</u>

CHAPTER 75-02-13
FAMILY PAID CAREGIVER PROGRAM

Section

<u>75-02-13-01</u>	<u>Definitions</u>
<u>75-02-13-02</u>	<u>Application - Eligibility</u>
<u>75-02-13-03</u>	<u>Administration</u>
<u>75-02-13-04</u>	<u>Denials – Revocations - Terminations - Appeals</u>

75-02-13-01. Definitions.

1. “Applicant” means an individual seeking services under this chapter.
2. “Application” means a signed request in the form and manner prescribed by the department by an applicant or by a legally responsible individual on

behalf of the applicant.

3. "Department" means the department of health and human services.
4. "Extraordinary care" means care exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of the applicant or eligible participant without extraordinary medical or behavioral needs and is necessary to assure the health and welfare and to avoid institutionalization of the applicant or eligible participant in need of care.
5. "Family caregiver" means a legally responsible individual who lives with and provides daily care to an eligible participant.
6. "Legally responsible individual" means any individual who has a duty under law to care for the applicant or eligible participant, including a biological or adoptive parent, non-entity custodian, guardian, or a spouse.
7. "Medicaid 1915(c) waiver" means the approved autism spectrum disorder waiver, medically fragile waiver, and traditional individuals with intellectual disabilities and developmental disabilities home and community-based services waiver.

History: Effective April 1, 2024.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

75-02-13-02. Application - Eligibility.

1. An applicant or legally responsible individual may apply to the department to participate in the family paid caregiver program.
2. A completed application shall be submitted to the department upon initial application and annually thereafter.
3. The date of application is the date a completed application is received by the department.
4. The department may declare an application withdrawn if the applicant or legally responsible individual fails to submit all required documentation or information within thirty days of the department's notification to the applicant or legally responsible individual that the application is incomplete.
5. An applicant is eligible to become an eligible participant if all the following conditions are met:
 - a. Applicant is enrolled in a Medicaid 1915(c) waiver;

- b. Applicant's support needs cannot be obtained through the educational system or other services available through a Medicaid 1915(c) waiver or Medicaid state plan;
- c. Applicant's assessed needs meet extraordinary care; and
- d. In accordance with section 75-02-13-03.

History: Effective April 1, 2024.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

75-02-13-03. Administration.

1. Eligible participants supported under this chapter may not exceed one hundred twenty individuals or the limits of legislative appropriations for the family paid caregiver program.
2. The department shall review completed applications in the order received and shall only approve applications within the limits of legislative appropriations for the family paid caregiver program.
3. Upon receiving the application, the department shall complete an assessment to determine if the applicant meets the extraordinary care requirement.
4. Upon approval of application, the department shall issue an authorization not to exceed six months. The department may reissue an authorization for an additional six months.
5. The department shall conduct face to face visits in the eligible participant's home at a minimum of every six months.
6. If the family caregiver has not submitted a request for payment for thirty calendar days, the department shall inform the eligible participant or legally responsible individual that, if an additional thirty calendar days pass without a request for payment, the service may be terminated due to inactivity.
7. The department shall deny an application if approval would exceed the limits of legislative appropriations for the family paid caregiver program or if the applicant does not meet the eligibility requirements pursuant to section 75-02-13-02. The department shall terminate an authorization if the funding awarded is exhausted or due to inactivity. The department shall revoke an authorization if the eligible participant is no longer eligible pursuant to section 75-02-13-02 or if the department is unable to conduct face to face visits due to refusal.

8. Funds are not available until the department approves the application and issues an authorization.

History: Effective April 1, 2024.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47

75-02-13-04. Denials – Revocations - Terminations - Appeals.

1. The department shall issue a written notice to an applicant, eligible participant, or a legally responsible individual when the department denies, revokes, or terminates.
2. The department shall include the reason for the denial, revocation, or termination and shall inform the applicant, eligible participant, or legally responsible individual of the right to appeal the denial, revocation, or termination, if applicable.
3. An application may be denied, revoked, or terminated under the terms and conditions of this chapter or North Dakota Century Code section 50-24.1-47.
4. An applicant, eligible participant, or legally responsible individual may appeal a denial, revocation, or termination of an application or authorization under this chapter. An appeal under this section must be made in writing within thirty days of the date of the notice issued under this section. The applicant, eligible participant, or legally responsible individual shall submit the written request for an appeal and hearing under chapter 75-01-03 and North Dakota Century Code chapter 28-32 to the appeals supervisor for the department.
5. An applicant, eligible participant, or legally responsible individual may not appeal:
 - a. A denial, revocation, termination, or reduction in payment resulting from exhausting or exceeding the limits of legislative appropriations for the family paid caregiver program;
 - b. The denial, revocation, or termination of an application or authorization under this chapter if the applicant is no longer eligible for a Medicaid 1915(c) waiver at the time of the denial, revocation, or termination; or
 - c. An application that has been withdrawn.

6. A family caregiver is not entitled to payment upon notice of revocation or termination to the eligible participant or legally responsible individual or during an appeal.

History: Effective April 1, 2024.

General Authority: NDCC 50-24.1-47

Law Implemented: NDCC 50-24.1-47