

August 1, 2023

Liz Fordahl, Counsel  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-23 and 75-03-24  
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 and Expanded Service Payments for Elderly and Disabled


Dear Ms. Fordahl:

Enclosed for filing in the office of the Legislative Council is the Notice of Intent to Amend  
Administrative Rules concerning the above proposed rules as required by N.D.C.C.  
section 28-32-10. Also enclosed is a copy of the proposed rules.

We have requested publication of an abbreviated newspaper publication notice once in  
each official county newspaper which will notify the public that an oral hearing on these  
rules will be held on Thursday, September 21, 2023, beginning at 12:30 p.m. and  
continuing until 2:00 p.m. or until no further testimony is offered, whichever occurs first.

If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,



Jonathan Alm  
Legal Division

JA/rv

cc: Nancy Maier, Aging Services  
Jessica Thomasson, Executive Director of Human Services Division

Enclosures

LEGAL

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D. ADMIN. CODE CHAPTERS 75-03-23 AND 75-03-24  
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 AND  
EXPANDED SERVICE PAYMENTS FOR ELDERLY AND DISABLED

TAKE NOTICE that the North Dakota Department of Health and Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24 at 12:30 p.m. on Thursday, September 21, 2023, 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 75-03-23 and 75-03-24, 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 and Expanded Service Payments for Elderly and Disabled, are necessary, in part, to comply with 2023 Senate Bill No. 2012.

The proposed changes are as follows:

**Section 75-03-23-01** is amended to replace the definition of “client” with “eligible individual”, and to amend the definition of “department”, “Medicaid waiver program”, “natural supports”, “service fee”, “service payment” “SPED program”, and “SPED program pool”.

**Section 75-03-23-03** is amended to replace “person” and “recipient” with “individual”.

**Section 75-03-23-04** is amended to update language to reflect person first language.

**Section 75-03-23-05** is amended to replace “client” with “eligible individual”, to update language to reflect person first language, and to add companionship services and its eligibility criteria to the list of available services.

**LEGAL**

**Section 75-03-23-06** is amended to replace “client” with “eligible individual”, update language to reflect person first language, to remove attendant care as an available service under the waiver, which ended on July 1, 2023, to remove nurse assessment as an allowable service under the 1915(c) Medicaid waiver and the effective date clause, and add personal care with supervision to help eligible individuals who need supervision and help with personal care.

**Section 75-03-23-07** is amended to replace “client” with “eligible individual”, to update language to reflect person first language, to require a representative of an enrolled QSP agency or an individual QSP to complete a department approved QSP orientation prior to initial enrollment, and to add language stating that agency providers who have accepted an authorization to provide 24-hour supports to an eligible individual must give a 30-day written notice before they can involuntarily discharge the eligible individual from their care.

**Section 75-03-23-08** is amended to replace “client” with “eligible individual”.

**Section 75-03-23-08.1** is amended to replace “recipients” with “eligible individuals” and to provide that department may terminate a QSP if the QSP has demonstrated a pattern of absenteeism by failing to provide care they have been authorized and agreed to provide to an eligible individual.

**Section 75-03-23-09** is amended to replace “client” with “eligible individual”.

**Section 75-03-23-11** is amended to replace “client” with “eligible individual”.

**Section 75-03-23-14** is amended to replace “recipient” and “client” with “eligible individual”.

**Subsection 5 of section 75-03-23-15** is amended to replace “recipients” with “eligible individuals”.

**Section 75-03-24-01** is amended to amend the definition of “department” and “Ex-SPED program pool”.

**Subsection 1 of section 75-03-24-03** is amended to replace “person” with “individual”.

**Subsection 5 of section 75-03-24-05** is amended to replace “recipients” with “eligible individuals”.

**Section 75-03-24-07** is amended to replace “client” with “eligible individual”, to update language to reflect person first language, and to add companionship and its eligible criteria to the list of available services.

**Section 75-03-24-09** is amended to replace “client” and “person” with “eligible individual”.

**Section 75-03-24-10** is amended to replace “client” with “eligible individual”.

**Section 75-03-24-12** is amended to replace “recipient” with “eligible individual”.

The proposed amendments are anticipated to have a positive impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at human service zones 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 Health and 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 Monday, October 2, 2023.

**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 Health and Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 1st day of August, 2023.

August 1, 2023

RE: Proposed Amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24  
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 and Expanded Service Payments for Elderly and Disabled

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code chapters 75-03-23 and 75-03-24, 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 and Expanded Service Payments for Elderly and Disabled. The department has adopted procedures to assure public input into the formulation of the rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on Monday, October 2, 2023.

The department has scheduled an oral hearing for Thursday, September 21, 2023. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

Your participation is welcomed, as are your suggestions. Please send all written data, views, or arguments to: Rules Administrator, Department of Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,



Christopher Jones  
Commissioner

CDJ/rv

Enclosures

cc: Liz Fordahl, Legislative Council  
Nancy Maier, Aging Services  
Jessica Thomasson, Executive Director of Human Services Division

**EXECUTIVE OFFICE**

GOVERNOR  
Doug Burgum

COMMISSIONER  
Christopher Jones