

May 19, 2020

Vonette Richter, Legal Division Director  
North Dakota Legislative Council  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505

RE: Emergency Rule Making for Proposed amendments to N.D. Admin. Code chapters 75-02-10 and 75-03-23  
Aid to Vulnerable Aged, Blind, and Disabled Individuals and 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

Dear Ms. Richter:

Attached for filing in the office of the Legislative Council are the following:

1. Notice of Intent to amend Administrative Rules concerning the above proposed rules as required by N.D.C.C. § 28-32-02;
2. Finding and Statement of reason of Christopher D. Jones, Executive Director of the North Dakota Department of Human Services, with respect to the declaration of the proposed amendments to N.D.A.C. chapters 75-02-10 and 75-02-10 and 75-03-23;
3. Interim final rules effective May 19, 2020; and
4. The May 19, 2020, letter from Governor Burgum approving the request for emergency rulemaking.

Mr. Jones has declared that the proposed amendments require emergency rulemaking. Accordingly, Mr. Jones has declared these proposed amendments to be interim final rules effective May 19, 2020.

The department has determined that appropriate measures to make the proposed interim final rules known to every person who may be affected by them consist of mailing a copy of the proposed rules to each human service zone office, to each regional human service center, and to persons or entities who have expressed an

**LEGAL ADVISORY UNIT**

600 E Boulevard Ave Dept 325 | Bismarck ND 58505-0250

701.328.2311 | Fax 701.328.2173 | 800.472.2622 | 711 (TTY) | [www.nd.gov/dhs](http://www.nd.gov/dhs)

Vonette Richter, Assistant Code Revisor  
Emergency Rule Making for Proposed Amendments  
May 19, 2020  
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interest in receiving notice of such rulemaking; furnishing this notice to the Legislative Council; and publishing notice of the proposed rulemaking once in each county newspaper of general circulation published in the state of North Dakota. If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,



Jonathan Alm  
Legal Advisory Unit

JA/rv

Cc: Caprice Knapp, Medical Services  
Nancy Nikolas-Maier, Aging Services



May 19, 2020

Christopher D. Jones  
Executive Director  
Department of Human Services  
600 East Boulevard Avenue  
Bismarck, ND 58505

Dear Executive Director Jones:

On May 18, 2020, your request for approval of emergency rulemaking was received. The request seeks to amend North Dakota Administrative Code Chapters 75-02-10 and 75-03-23 relating to Aid to Vulnerable Aged, Blind, and Disabled Individuals and 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.

After reviewing the request under N.D.C.C. § 28-32-02, it is evident that emergency rulemaking is reasonably necessary to meet a mandate of federal law, entitled The Coronavirus Aid, Relief, and Economic Security Act of 2020.

Adoption of the proposed rules as interim final rules is hereby approved.

Regards,

A handwritten signature in blue ink that reads "Doug Burgum".

Doug Burgum  
Governor

**FINDING AND STATEMENT OF REASON  
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES  
REGARDING PROPOSED AMENDMENTS TO  
NORTH DAKOTA ADMINISTRATIVE CODE CHAPTERS 75-02-10 AND 75-03-23  
AID TO VULNERABLE AGED, BLIND, AND DISABLED INDIVIDUALS AND  
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**

**FINDING**

I find that emergency rulemaking to amend N.D. Admin. Code chapters 75-02-10, Aid to Vulnerable Aged, Blind, and Disabled Individuals and 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, is necessary to meet a mandate of federal law.

**STATEMENT OF REASON**

Emergency rulemaking is necessary for the Department of Human Services to meet a mandate of federal law, Coronavirus Aid, Relief, and Economic Security Act of 2020.

Dated this 18th day of May, 2020.



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Christopher D. Jones  
Executive Director

**EXECUTIVE OFFICE**

GOVERNOR  
Doug Burgum

EXECUTIVE DIRECTOR  
Christopher Jones



ABBREVIATED NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTERS 75-02-10 AND 75-03-23  
AID TO VULNERABLE AGED, BLIND, AND DISABLED INDIVIDUALS AND  
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

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed changes to the N.D. Admin. Code at 12:00 p.m. on Tuesday, June 23, 2020, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol. The proposed changes are effective May 19, 2020, as interim final rules (emergency rules) under North Dakota Century Code Section 28-32-03(2)(d); the rules are required to meet a mandate of federal law, entitled the Coronavirus Aid, Relief, and Economic Security Act of 2020.

Copies of the proposed rules are available for review at human service zones (formerly known as county social services) offices and at human service centers. Copies of the proposed rules, the regulatory analysis relating to these rules, and the telephone call number for public access to real time streaming of the public hearing 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 must be received no later than 5:00 p.m. on July 6, 2020.

**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 19th day of May, 2020.

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NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTERS 75-02-10 AND 75-03-23  
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The proposed amendments to N.D. Admin. Code chapter 75-02-10 and 75-03-23, Aid to Vulnerable Aged, Blind, and Disabled Individuals and 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 the Coronavirus Aid, Relief, and Economic Security Act of 2020.

The proposed changes are as follows:

**Subsection 4 of section 75-02-10-01** is amended to exclude recovery rebates authorized by section 2201 of the Coronavirus Aid, Relief, and Economic Security Act of 2020 being counted as gross income.

**Subsection 2 of section 75-03-23-02** is amended to exclude recovery rebates authorized by section 2201 of the Coronavirus Aid, Relief, and Economic Security Act of 2020 being counted as an available resource.

The proposed amendments are not anticipated to have an 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 zone (formerly known as county social services) offices and at human service centers.

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**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 19th day of May, 2020.