

**BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE
NORTH DAKOTA LEGISLATIVE COUNCIL**

N.D. Admin. Code Chapter)	
75-03-23, Provision of Home and)	<u>REPORT OF THE</u>
Community-Based Services under)	<u>DEPT. OF HUMAN SERVICES</u>
the Service Payments for Elderly)	December 5, 2017
and Disabled Program and the)	
Medicaid Waiver for the Aged and)	
Disabled Program)	
(Pages 126-136))	

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For its report, the North Dakota Department of Human Services (Department) states:

1. The proposed amendments to N.D. Admin Code chapter 75-03-23 are necessary to comply with an appropriations measure passed during the 2017 legislative session, as directed by House Bill No. 1012, relating to the availability of nursing assessments and community transition services to Medicaid waiver recipients.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state

where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.

The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on September 5, 2017. The record was held open until 5:00 p.m. on September 15, 2017, to allow written comments to be submitted. One person attended and provided comments at the public hearing. Two written comments were received within the comment period. The "Summary of Comments" is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$2612.68.
6. The proposed rules amend chapter 75-02-04.1. The following specific changes were made:

Section 75-03-23-01 is amended to add a definition of institution.

Section 75-03-23-02 is amended to update language to use "private residence" versus "private family dwelling" for consistency purposes.

Section 75-03-23-06 is amended to allow the department, to provide community transition services to eligible Medicaid waiver recipients; to identify allowable and non-allowable services and expenses; to establish the department may

provide a nurse assessment to a client; and to establish an effective date based on Centers for Medicare and Medicaid Services approval of the amendments to the 1915(c) Medicaid waiver and federal financial participation.

Subsections 6 and 7 of section 75-03-23-07 are amended to add supervision and nurse assessment to the list of qualified service provider standards and agreements and to add physician assistant to the list of providers that are not required to provide written verification of competency.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule amendments are expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. The anticipated fiscal impact resulting from the implementation of the proposed amendments is \$965,907 (total funds) of which \$482,954 is general funds for the 2017-2019 biennium. Funding for this change was appropriated by 2017 House Bill 1012.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were not adopted as emergency (interim final) rules.

Prepared by:

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