

NOTICE OF INTENT TO
ADOPT, CREATE, AMEND, AND REPEAL ADMINISTRATIVE RULES
RELATING TO WORKFORCE SAFETY & INSURANCE,
AND NOTICE OF PUBLIC HEARING

Amend: Temporary Partial Disability Benefits; Injured Employee Attorney Fees; Merger, Transfer & Sale of Business; Rehabilitation Equipment; Medical and Hospital Fees; Medical Services – Definitions, Who May Be Reimbursed, and Prior Authorization; Criteria for Motor Vehicle Purchase and Modification, Home Modification, Power Mobility Device, Footwear, and Prostheses; Independent Medical Examinations; Medical Service Provider Responsibilities and Billings and Copies of Records; Employer Attorney Fees; Decision Review Office – Electronic Means; and Premium Credit – Military Members.

Repeal: Definitions; First Report of Injury; Treating Health Care Provider’s Opinion; and Contributing Cause of Mental or Psychological Condition Defined.

TAKE NOTICE that Workforce Safety & Insurance(WSI) will hold a public hearing to address the proposed creation, amendments and repeal to North Dakota Administrative Code, Title 92, at 9:00 AM on Tuesday, September 23, 2025, at the WSI Board Room, Century Center, 1600 E. Century Avenue, Bismarck, North Dakota, at which time and place all persons will be heard regarding the proposed creation, amendments, and repeal to the North Dakota Administrative Code as follows:

1. The purpose of the repeal of Administrative Code Section 92-01-02-01, regarding the definitions of the terms “Act” and “Organization” is to remove these terms which are unnecessary and no longer useful and “Organization” is defined in statute. The proposed repeal is not expected to have an impact on the regulated community in excess of \$50,000.
2. The purpose of the proposed amendment to Administrative Code Section 92-01-02-02.1, relating to temporary partial disability benefits is to remove repetitive language which is codified in statute. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
3. The purpose of the repeal of Administrative Code Section 92-01-02-02.3, relating to the First Report of Injury (FROI) is to remove an unnecessary rule which outlines how to complete the application and outlines some procedural steps for filing a claim which are codified in statute. The proposed repeal is not expected to have an impact on the regulated community in excess of \$50,000.
4. The purpose of the repeal of Administrative Code Section 92-01-02-02.4, relating to the treating health care provider’s opinion, is to remove an obsolete rule. The proposed repeal is not expected to have an impact on the regulated community in excess of \$50,000.

5. The purpose of the repeal of Administrative Code Section 92-01-02-02.5, relating to “contributing cause of mental or psychological condition defined” is due to an opinion of the N.D. Supreme Court. Subsequently, this rule had been codified in statute during the 69th Legislative Assembly of North Dakota, Senate Bill 2109. The proposed repeal is not expected to have an impact on the regulated community in excess of \$50,000.
6. The purpose of the proposed amendment to Administrative Code Section 92-01-02-11.1, relating to injured employee’s attorney fees is to increase the hourly rate and caps regarding attorney’s fees and to increase the reimbursement for copying charges. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
7. The purpose of the proposed amendment to Administrative Code Section 92-01-02-13, relating to a merger, exchange, or transfer of business is to remove the term “exchange” of business and insert the term “sale” of business when defining a surviving entity, and to further define the terms “constituent business” and “surviving entity”. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
8. The purpose of the proposed amendment to Administrative Code Section 92-01-02-24, relating to rehabilitation services is to allow for payment of training equipment for an injured employee, such as a computer, absent a determination of a retraining program. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
9. The purpose of the proposed amendment to Administrative Code Section 92-01-02-27, relating to medical and hospital fees and reimbursement methods is to include the organization’s Formulary/Medication Restrictions list. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
10. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29, relating to medical services – definitions is to remove the terms “concurrent review” and “physical conditioning” as obsolete, and to enhance the description of other terms to provide more clarity. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
11. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.3, relating to motor vehicle purchase and modification is to further streamline and clarify the criteria that must be met for the organization’s approval. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.
12. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.4, relating to home modifications is to further streamline and clarify the criteria that must be met for the organization’s approval. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

13. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.5, relating to power mobility devices is to further streamline and clarify the criteria that must be met for the organization's approval. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

14. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.6, relating to footwear is to further streamline and clarify the criteria that must be met for the organization's approval. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

15. The purpose of the proposed amendment to Administrative Code Section 92-01-02-29.7, relating to prosthetics is to further streamline and clarify the criteria that must be met for the organization's approval. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

16. The purpose of the proposed amendment to Administrative Code Section 92-01-02-31, relating to "medical services – who may be reimbursed" is to further clarify a reason for holding a medical service provider ineligible for reimbursement involving a disciplinary action. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

17. The purpose of the proposed amendment to Administrative Code Section 92-01-02-34, relating to medical treatment requiring preservice review is to insert the standardized term "prior authorization" to be requested by medical service providers. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

18. The purpose of the proposed amendment to Administrative Code Section 92-01-02-41, relating to independent medical examinations is to remove unnecessary language. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

19. The purpose of the proposed amendment to Administrative Code Section 92-01-02-45.1, relating to medical service provider responsibilities and billings is to remove the requirement of a social security number, remove some billing requirements, and to outline the copying charges paid by the organization when requesting records for the coordination of a benefits determination. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

20. The purpose of the proposed amendment to Administrative Code Section 92-01-02-46, relating to medical services disputes is to replace the term "preauthorization" with "prior authorization." The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

21. The purpose of the proposed creation of Administrative Code Section 92-01-02-49.2, is to outline criteria for attorney fee reimbursement for employers. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

22. The purpose of the proposed creation of Administrative Code Section 92-01-02-58, is to outline the application process for approval of a one-time premium credit for an active member of the N.D. National Guard or armed forces, a veteran, or a surviving spouse of a veteran. The creation of this rule is the result of legislation passed by the 69th Legislative Assembly, Senate Bill 2046. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

23. The purpose of the proposed amendment to Administrative Code Section 92-01-03-04, relating to the Decision Review Office is to expand the issuance of the certificate of completion and correspondence by electronic means. This amendment is the result of legislation passed by the 69th Legislative Assembly, Senate Bill 2109. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules, and regulatory analyses, small entity regulatory analyses, small entity economic impact statements, and fiscal notes may be reviewed at Workforce Safety & Insurance, 1600 East Century Avenue, Suite 1, Bismarck, North Dakota. A copy of the proposed rules, regulatory analyses, small entity regulatory analyses, small entity economic impact statements, and fiscal notes may be requested by writing to the address below or by calling 800-777-5033.

Persons who require accommodations to attend the public hearing should contact Workforce Safety & Insurance at the below address and phone number at least five days prior to the public hearing.

Workforce Safety & Insurance
P.O Box 5585
1600 E. Century Ave., Suite 1
Bismarck, ND 58506-5585
Ph. 800-777-5033
TTY: 1-800-366-6888

Written or oral comments concerning the proposed rules may be sent or telephoned to the organization at the above address or phone number. The closing date for receipt and full consideration of all written or oral comments is end of business day, October 3, 2025.

Dated: August 13, 2025. WSI Legal Department, ATTN: Julie Porsborg