

1915(i) Policy

Provider Enrollment Screening 510-08-50-05

Provider Enrollment Screening Requirements for Individual Providers Applying for Enrollment as a ND Medicaid Provider of 1915(i) Services

Regulating Authority

North Dakota Century Code (NDCC) Title 12.1 Criminal Code
North Dakota Administrative Code (NDAC) Chapter 75-02-05 Provider Integrity
North Dakota Administrative Code (NDAC) Chapter 75-01-03 Appeals and Hearings
U.S. Code of Federal Regulations (CFR), Title 42, Chapter IV, Part 424, Subpart P – Requirements for Establishing and Maintaining Medicare Billing Privileges

Applicant Disclosure of Criminal Conviction Requirements

As part of the Medicaid provider enrollment application process, 1915(i) individual provider applicants are required to disclose all felony, class A misdemeanor, or class B misdemeanor convictions listed in NDAC 75-02-05-11.2: <https://www.legis.nd.gov/information/acdata/pdf/75-02-05.pdf>. A background check will be conducted for all provider applicants.

If undisclosed criminal convictions are discovered during the provider screening process, the provider applicant will be denied enrollment.

Denial of Application Due to Conviction

ND 1915(i) provider applicants will be denied if the provider applicant has been convicted of any of the following felonies, class A misdemeanors, or class B misdemeanors outlined in NDAC 75-02-05-11.2 and have not been deemed "sufficiently rehabilitated" by the NDDHS.

12.1-16 homicide; 12.1-17, assaults - threats - coercion - harassment; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; in North Dakota Century Code section 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-06, sexual abuse of wards; 12.1-20-06.1, sexual exploitation by therapist; 12.1-20-07, sexual assault; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 12.1-31-07, endangering a vulnerable adult; 12.1-31-07.1, exploitation of a vulnerable adult; subsection 1 of section 26.1-02.1-02.1 of North Dakota Century Code, fraudulent insurance acts; or an offense under the laws of another jurisdiction which requires proof of substantially similar

elements as required for conviction under any of the enumerated North Dakota statutes.

Sufficiently Rehabilitated

Applicants with a Single Conviction

If a provider applicant has been convicted of only one felony, class A misdemeanor, or class B misdemeanor as outlined in 75-02-05-11.2, ND Medicaid Provider Enrollment will deem a 1915(i) provider applicant "sufficiently rehabilitated" if the following number of years have elapsed since final discharge and release from any term of probation, parole or other form of community corrections, or imprisonment, without subsequent conviction (NDCC 12.1-33-02.1.2.c).

- Felony = 3 years
- Class A misdemeanor = 2 years
- Class B misdemeanor = 1 year

Applicants with Two or More Convictions

If a provider applicant has been convicted of two or more felonies, class A misdemeanors, or class B misdemeanors as outlined in 75-02-05-11.2, ND Medicaid Provider Enrollment will deem a 1915(i) provider applicant "sufficiently rehabilitated" if **five years** has elapsed since final discharge and release from any term of probation, parole or other form of community corrections, or imprisonment, without subsequent conviction (NDCC 12.1-33-02.1.2.c).

Applicants with Subsequent Conviction within the Stated Time Period

ND Medicaid Provider Enrollment will not deem a 1915(i) provider applicant "sufficiently rehabilitated" if the provider applicant was convicted of an offense outlined in NDAC 75-02-05-11.2 and a subsequent conviction of any felony, class A misdemeanor, or class B misdemeanor, not limited to the offenses located in NDAC 75-02-05-11.2, occurs prior to the above time period expiring. The provider applicant will forever be prohibited from enrolling as a 1915(i) provider with ND Medicaid.

Enrolled Provider Convictions

After the provider is enrolled, they must report to ND Medicaid any felony, class A misdemeanor, or class B misdemeanor convictions outlined in NDAC 75-02-05-11.2 that occur during the provider enrollment period. If an enrolled provider is convicted of any felony, class A misdemeanor, or class B misdemeanor as outlined in NDAC 75-02-05-11.2 during the provider enrollment period, their provider enrollment will be terminated by ND Medicaid. A terminated provider will have an opportunity to reenroll with ND Medicaid and be considered "sufficiently rehabilitated" if the following number of years have elapsed since final discharge and release from any term of probation, parole or other form of community

corrections, or imprisonment, without subsequent conviction (NDCC 12.1-33-02.1.2.c):

1. First offense:
 - Felony = 3 years
 - Class A misdemeanor = 2 years
 - Class B misdemeanor = 1 year
2. Five years for two or more offenses.

Terminated Provider Applicants

ND Medicaid Provider Enrollment will not deem a 1915(i) terminated provider "sufficiently rehabilitated" if the terminated provider applicant was convicted of an offense outlined in NDAC 75-02-05-11.2 and a subsequent conviction of any felony, class A misdemeanor, or class B misdemeanor, not limited to the offenses located in NDAC 75-02-05-11.2, occurs prior to the above time period expiring. The terminated provider applicant will forever be prohibited from enrolling as a 1915(i) provider with ND Medicaid.

Failure to report or disclose a conviction to ND Medicaid will result in a termination of provider enrollment. A background check may be conducted on enrolled providers.

The ND Medicaid Provider Enrollment process includes written notification to all provider applicants and providers informing them of acceptance or denial of the application or termination.

ND Medicaid Provider Enrollment Appeals

NDAC Chapter 75-02-05-09 Provider Integrity, located here: <https://www.legis.nd.gov/information/acdata/pdf/75-02-05.pdf>, provides an applicant the right to appeal a decision to deny enrollment or terminate provider enrollment by filing a written appeal with the department within fifteen days of the date of the written notice of the denial or termination. Upon receipt of a timely appeal, an administrative hearing may be conducted in the manner provided in NDAC Chapter 75-01-03. Appeals and Hearings, located here: <https://www.legis.nd.gov/information/acdata/pdf/75-01-03.pdf>. An applicant who receives notice of denial and requests a timely review of that decision is not eligible to provide services until a final decision has been made by the department that reverses the decision to deny the application.