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State/Territory Name: North Dakota

State Plan Amendment (SPA) #: ND-14-0102-MM

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1600 Broadway, Suite 700
Denver, CO 80202-4967



Region VIII

December 16, 2014

Julie Schwab, Medicaid Director
Medical Services Division
North Dakota Department of Human Services
600 East Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

RE: North Dakota # 14-0102-MM

Dear Ms. Schwab:

Enclosed is an approved copy of North Dakota's state plan amendment (SPA) 14-0102-MM, which was submitted to CMS on September 16, 2014. This amendment reflects the North Dakota delegating appeals to the Office of Market Place Eligibility Appeals, effective October 1, 2014. This Single State Agency State Plan Amendment (ND-14-0102-MM) supersedes ND-14-0101-MM.

Enclosed is a copy of the following A1-A3 state plan pages and attachments to be incorporated within a separate section at the end of North Dakota's approved state plan.

The enclosure incorporates the following statement into the North Dakota State Plan:
"Notwithstanding the checked assurance on A3, the single state agency has not entered into an agreement with the Health and Human Services Appeals Entity to conduct Medicaid fair hearings to date, but will enter into a CMS approved agreement as soon as possible."

CMS appreciates the significant amount of work your staff dedicated to preparing this state plan amendment. If you have any questions concerning this amendment, please contact Ann Clemens at (303) 844-2125.

Sincerely,

/s/

Richard C. Allen
Associate Regional Administrator
Division for Medicaid and Children's Health Operations

CC: Maggie Anderson, ND
Stacey Koehly, ND

Medicaid State Plan Eligibility: Summary Page (CMS 179)

State/Territory name: North Dakota

Transmittal Number:

Please enter the Transmittal Number (TN) in the format ST-YY-0000 where ST= the state abbreviation, YY = the last two digits of the submission year, and 0000 = a four digit number with leading zeros. The dashes must also be entered.

ND-14-0102

Proposed Effective Date

10/06/2014 (mm/dd/yyyy)

Federal Statute/Regulation Citation

42 CFR 431.10

Federal Budget Impact

	Federal Fiscal Year	Amount
First Year	2014	\$ 0.00
Second Year	2015	\$ 0.00

Subject of Amendment

Single State Medicaid Agency; Forms A1-A3 Medicaid Administration revised and submitted to reflect North Dakota delegating appeals to the Office of Market Place Eligibility Appeals, effective October 6, 2014. This Single State Medicaid Agency State Plan Amendment (14-0102) supercedes ND-14-0101.

Governor's Office Review

Governor's office reported no comment

Comments of Governor's office received

Describe:

No reply received within 45 days of submittal

Other, as specified

Describe:

State Plan submission responsibility is with the Single State Agency without review by the Governor's office.

Signature of State Agency Official

Submitted By: Maggie Anderson

Last Revision Date: Dec 12, 2014

Submit Date: Sep 16, 2014



Medicaid Administration

State Name:

OMB Control Number: 0938-1148

Transmittal Number: ND - 14 - 0102

Expiration date: 10/31/2014

State Plan Administration Designation and Authority

A1

42 CFR 431.10

Designation and Authority

State Name:

As a condition for receipt of Federal funds under title XIX of the Social Security Act, the single state agency named below submits the following state plan for the medical assistance program, and hereby agrees to administer the program in accordance with the provisions of this state plan, the requirements of titles XI and XIX of the Act, and all applicable Federal regulations and other official issuances of the Department.

Name of single state agency:

Type of Agency:

- Title IV-A Agency
- Health
- Human Resources
- Other

The above named agency is the single state agency designated to administer or supervise the administration of the Medicaid program under title XIX of the Social Security Act. (All references in this plan to "the Medicaid agency" mean the agency named as the single state agency.)

The state statutory citation for the legal authority under which the single state agency administers the state plan is:

The single state agency supervises the administration of the state plan by local political subdivisions.

Yes No

The state statutory citation for the legal authority under which the agency supervises the administration of the plan on a statewide basis is:

The state statutory citation under which the single state agency has legal authority to make rules and regulations that are binding on the political subdivisions administering the plan is:

The certification signed by the state Attorney General identifying the single state agency and citing the legal authority under which it administers or supervises administration of the program has been provided.

An attachment is submitted.



Medicaid Administration

The state plan may be administered solely by the single state agency, or some portions may be administered by other agencies.

The single state agency administers the entire state plan under title XIX (i.e., no other agency or organization administers any portion of it).

Yes No

Waivers of the single state agency requirement have been granted under authority of the Intergovernmental Cooperation Act of 1968.

The waivers are still in effect.

Yes No

Enter the following information for each waiver:

Remove

Date waiver granted (MM/DD/YY): 12/27/13

The type of responsibility delegated is (check all that apply):

- Determining eligibility
- Conducting fair hearings
- Other

Name of state agency to which responsibility is delegated:

Office of Administrative Hearings

Describe the organizational arrangement authorized, the nature and extent of responsibility for program administration delegated to the above named agency, and the resources and/or services of such agency to be utilized in administration of the plan:

The North Dakota Legislature created an independent office of administrative hearings (OAH) to conduct hearings for various state agencies. OAH conducts all Medicaid fair hearings. The administrative law judge (ALJ) within OAH, their support staff and all of its resources are utilized for this purpose. When the Department of Human Services (Department) receives a request for a Medicaid fair hearing from an individual, it makes a written request to OAH for the assignment of an ALJ to conduct the hearing and issue recommended conclusions of law and a recommended order. After the hearing, the recommendations are mailed to both the applicant and the Department. The Department may adopt, modify or reject the ALJ's recommended conclusions of law when it issues its final decision. If the Department makes changes in the recommended decision, it must explain its rationale for changes in its final decision. The applicant may then file a request for a rehearing with OAH (to offer additional evidence) or for reconsideration with the Department (alleging legal errors). This is the last level of the Department's review. If such a request is not filed, or after Department rules in such a request, applicant may appeal to the District Court. Either party may appeal the decision of the District Court to the North Dakota Supreme Court. The Department retains oversight of the State Plan and has a process to monitor the entire appeals process, including the quality and accuracy of the final decisions made by OAH. DHS will ensure that every applicant and beneficiary is informed, in writing, of the fair hearing process and how to contact OAH and how to obtain information about fair hearings from that agency. The Department will ensure that OAH complies with all federal and state laws, regulations and policies. This process is the same for all Medicaid fair hearings. There is no written agreement between the Department and the OAH.



Medicaid Administration

The methods for coordinating responsibilities among the agencies involved in administration of the plan under the alternate organizational arrangement are as follows:

The methods of coordinating responsibilities between the Medicaid Agency and OAH for conducting fair hearings are codified in state statutes and administrative regulations. See N.D.C.C. Chapter 54-57 (Office of Administrative Hearings) and Chapter 28-32 (Administrative Agencies Practice Act). See also, N.D. Administrative Code Title 75-01-03 (Department of Human Services/Appeals and Hearings) and Title 98 (Office of Administrative Hearings).

Add

- The agency that administers or supervises the administration of the plan under Title X of the Act as of January 1, 1965, has been separately designated to administer or supervise the administration of that portion of this plan related to blind individuals.

The entity or entities that have responsibility for determinations of eligibility for families, adults, and for individuals under 21 are:

- The Medicaid agency
- Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act

The entity that has responsibility for determinations of eligibility for the aged, blind, and disabled are:

- The Medicaid agency
- Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- The Federal agency administering the SSI program

The entity or entities that have responsibility for conducting fair hearings with respect to denials of eligibility based on the applicable modified adjusted gross income standard are:

- Medicaid agency
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- An Exchange appeals entity, including an entity established under section 1411(f) of the Affordable Care Act

Name of entity: Health and Human Services Appeals Entity

The agency has established a review process whereby the agency reviews appeals decisions made by the Exchange or Exchange appeals entity or other state agency, but only with respect to conclusions of law, including interpretations of state or federal policies.

- Yes No

State Plan Administration Organization and Administration A2

42 CFR 431.10
42 CFR 431.11



Medicaid Administration

Organization and Administration

Provide a description of the organization and functions of the Medicaid agency.

The Department of Human Services Provides services that help vulnerable North Dakotans of all ages to maintain or enhance their quality of life, which may be threatened by lack of financial resources, emotional crises, disabling conditions, or an inability to protect themselves. The Medical Services Division of the Department is responsible for the administration of the Medicaid and Children's Health Insurance Program. The Division contains several divisions including utilization review, manage care, rate setting, home and community-based services, program integrity, eligibility policy, and administrative support. Eligibility determinations are completed by the county social service offices, and some eligibility determinations (both Medicaid and CHIP) are completed within the Division, as part of the Children's Health Insurance Program unit. The Medical Services Division has staff that are responsible for eligibility determinations for the Children's Health Insurance Program. The Department receives the applications directly from families, or sometimes from other entities that are hosting enrollment events where they assist families in completing the applications. Families have the option to send applications directly to our office or to the local county office. Because eligibility must be tested for Medicaid, prior to testing for CHIP, these staff may make a Medicaid determination, as part of the process. The Division retains responsibility for establishing policy, training county eligibility workers, and providing technical assistance and oversight. The recommended decisions from the Office of Administrative Hearings are received by the Legal Advisory Unit and reviewed with Division program staff. The Legal Advisory Unit reports to the Executive Director. The final findings are reviewed and signed by the Executive Director. Financial support is provided by the Fiscal Administrative Services Division, including assisting the Division in developing and monitoring the budget and expenditures and filing the required Medicaid and CHIP financial reports. Legal advisory support is provided by the Legal Advisory Unit including oversight of the appeals process, trust review, and legal guidance on program issues. The Children and Family Services Division oversees all of the Child Welfare programs and collaborates with the Division on medical services for foster care children, such as rehabilitation, targeted case management and psychiatric residential treatment facility services. The Mental Health and Substance Abuse Services Division provides the policy leadership and is the licensing authority for mental health and substance abuse programs. The Developmental Disabilities Division oversees the Intermediate Care Facility services and the 1915(c) waiver for individuals with a Developmental Disability.

Upload an organizational chart of the Medicaid agency.

An attachment is submitted.

Provide a description of the structure of the state's executive branch which includes how the Medicaid agency fits in with other health, human service and public assistance agencies.

Medicaid is part of the Department of Human Services. The Executive Director of the Department is appointed by the Governor. Separate from the Department of Human Services, the State Health Officer is the head of the Health Department and is also appointed by the Governor. There are seventeen agency heads that are appointed by the Governor, and serve on his/her Cabinet. The Fair Hearings occur within the Office of Administrative Hearings, which is an executive branch agency that provides independent administrative law judges to preside at administrative hearings. The Director of the Office of Administrative Hearings is appointed by the Governor, and confirmed by the North Dakota Senate.

Entities that determine eligibility other than the Medicaid Agency (if entities are described under Designation and Authority)

Remove

Type of entity that determines eligibility:

- Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- The Federal agency administering the SSI program



Medicaid Administration

Provide a description of the staff designated by the entity and the functions they perform in carrying out their responsibility.

The Federally-Facilitated Marketplace (FFM) will be determining eligibility for Medicaid for groups of individuals whose income eligibility is determined based on MAGI income methodology and who apply through the FFM. The FFM will not be assigning an individual who is determined eligible for Medicaid whose income eligibility is determined using MAGI methodology to a specific eligibility group, determining cost-sharing (if applicable), or assigning a benefit package; these are functions that will be performed by the single state agency.

Add

Entities that conduct fair hearings other than the Medicaid Agency (if are described under Designation and Authority)

Remove

Type of entity that conducts fair hearings:

- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- An Exchange appeals entity, including an entity established under section 1411(f) of the Affordable Care Act

Provide a description of the staff designated by the entity and the functions they perform in carrying out their responsibility.

The HHS Appeals Entity will conduct Medicaid fair hearings for individuals whose Medicaid eligibility has been determined and found ineligible for Medicaid by the Federally-facilitated Marketplace (FFM). These will be individuals whose income eligibility is determined based on MAGI income methodology and who applied for health coverage through the FFM.

Add

Supervision of state plan administration by local political subdivisions (if described under Designation and Authority)

Is the supervision of the administration done through a state-wide agency which uses local political subdivisions?

- Yes
- No

The types of the local subdivisions that administer the state plan under the supervision of the Medicaid agency are:

- Counties
- Parishes
- Other

Are all of the local subdivisions indicated above used to administer the state plan?

- Yes
- No

Indicate the number used to administer the state plan:

Description of the staff and functions of the local subdivisions:

Counties make eligibility determinations for all Medicaid populations. Eligibility determination responsibilities of the county social service offices are outlined in North Dakota Century Code 50-01.2-03.2 and 50-01.2-00.1. There are several areas of the state where the county social service boards combined for efficiencies. When there is a consolidation, the county social service boards in the individual counties no longer exist, and rather one county social service board was created to oversee the county social service operations of the multi-county area. The Medicaid eligibility area (county eligibility workers) are part of the operations under the authority of the county social service board. Medicaid fair hearings may be held at the county office (the location), but the hearing is conducted by the Office of Administrative Hearings.



Medicaid Administration

State Plan Administration

Assurances

A3

42 CFR 431.10
42 CFR 431.12
42 CFR 431.50

Assurances

- The state plan is in operation on a statewide basis, in accordance with all the requirements of 42 CFR 431.50.
- All requirements of 42 CFR 431.10 are met.
- There is a Medical Care Advisory Committee to the agency director on health and medical services established in accordance with meeting all the requirements of 42 CFR 431.12.
- The Medicaid agency does not delegate, to other than its own officials, the authority to supervise the plan or to develop or issue policies, rules, and regulations on program matters.

Assurance for states that have delegated authority to determine eligibility:

- There is a written agreement between the Medicaid agency and the Exchange or any other state or local agency that has been delegated authority to determine eligibility for Medicaid eligibility in compliance with 42 CFR 431.10(d).

Assurances for states that have delegated authority to conduct fair hearings:

- There is a written agreement between the Medicaid agency and the Exchange or Exchange appeals entity that has been delegated authority to conduct Medicaid fair hearings in compliance with 42 CFR 431.10(d).
- When authority is delegated to the Exchange or an Exchange appeals entity, individuals who have requested a fair hearing are given the option to have their fair hearing conducted instead by the Medicaid agency.

Assurance for states that have delegated authority to determine eligibility and/or to conduct fair hearings:

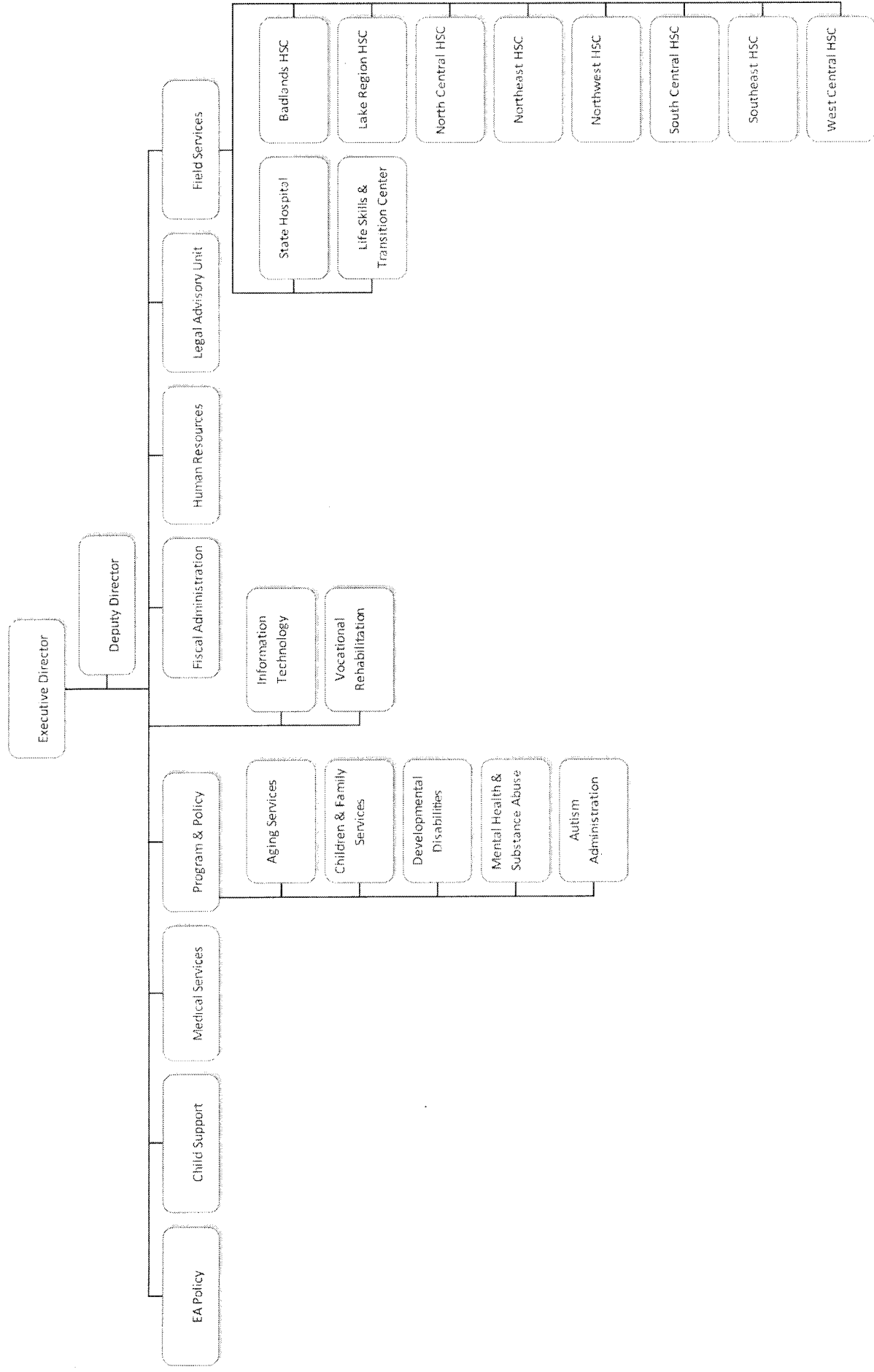
- The Medicaid agency does not delegate authority to make eligibility determinations or to conduct fair hearings to entities other than government agencies which maintain personnel standards on a merit basis.

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

V 20141203

North Dakota Department of Human Services



STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT Attachment 1.1-A
MEDICAL ASSISTANCE PROGRAM

Oct 4 5 30 41 1982

State of North Dakota

ATTORNEY GENERAL'S CERTIFICATION

I certify that:

The North Dakota Department of Human Services is the
single State agency responsible for:

administering the plan.

The legal authority under which the agency administers
the plan on a Statewide basis is

(statutory citation)

supervising the administration of the plan by local
political subdivisions.

The legal authority under which the agency supervises
the administration of the plan on a Statewide basis is
contained in

50-06-05.1 NDCC

(statutory citation)

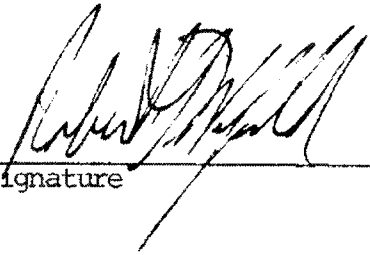
The agency's legal authority to make rules and regulations
that are binding on the political subdivisions administer-
ing the plan is

50.24.1-04 NDCC

(statutory citation)

August 5, 1982

DATE



Signature

Attorney General

Title

TN-82-7
Superseded
TN-74-12

Approved 10/6/82 Effective 7/1/82

MEDICAID ADMINISTRATION

TRANSMITTAL NUMBER:

14-0102-MM

STATE:

North Dakota

Notwithstanding the checked assurance on A3, the single state agency has not entered into an agreement with the Health and Human Services Appeals Entity to conduct Medicaid fair hearings to date, but will enter into a CMS-approved agreement as soon as possible.