Minnesota Department of **Human Services**

November 30, 2001

Governor Jesse Ventura

Senator Don Samuelson, Chair
Legislative Coordinating Commission

Michele Timmons, Revisor of Statutes

Senator Dallas Sams, Chair
Senator Michelle Fischbach, Ranking Republican
Senate Health and Family Security Committee

Senator Linda Berglin, Chair
Senator Sheila Kiscaden, Ranking Republican
Senate Health, Human Services, and Corrections Budget Division

Representative Fran Bradley, Chair
Representative Luanne Koskinen, Lead Democrat
House Health and Human Services Policy Committee

Representative Kevin Goodno, Chair
Representative Thomas Huntley, Lead Democrat
House Health and Human Services Finance Committee

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REVISOR OF STATUTES

Re: Annual Report from Minnesota Department of Human Services on Obsolete, Unnecessary, or Duplicative Rules, as Required by Minnesota Statutes, section 14.05, subdivision 5

Minnesota Statutes, section 14.05, subdivision 5, states:

> "By December 1 of each year, an agency must submit to the governor, the legislative coordinating commission, the policy and funding committees and divisions with

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jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's December 1 report must state that conclusion."

Department of Human Services staff have identified the following rule parts or subparts for repeal as obsolete or unnecessary in 2002:

- **Minnesota Rules, parts 9500.1800 to 9500.1821 governing child support incentive awards to county child support enforcement agencies to encourage collection of child support**

Minnesota Statutes, section 256.979, subdivision 11 directs the commissioner of human services to "follow the federal transition plans" in distributing federal child support incentive payments to counties. Federal regulations that govern the federal transition plans are in effect through September 30, 2002. When the transition period ends and DHS has made all final disbursements under the rules, the rules will be repealed. The projected effective date for the repealer is December 31, 2002.

- **Minnesota Rules, parts 9505.3010 to 9505.3140 governing community alternatives for disabled individuals under age 65 and parts 9505.3500 to 9505.3700 governing community alternatives for chronically ill individuals under age 65**

Many of these rule parts were repealed legislatively in First Special Session, 2001 to shift management of the two programs to the local level and to remove requirements the department believed were too restrictive. The repealed rule parts were replaced with statutory language stating basic requirements that programs must meet in order to qualify for funding under the MA waiver and establishing federally-approved waiver applications as the authority for specific standards. While parts 9505.3010 to 9505.3040, parts 9505.3065, 9505.3085, and 9505.3135, and parts 9505.3590 to 9505.3670 were repealed in 2001, it will be necessary to repeal additional parts also made obsolete by the new statutory language. Those repealers will be included in a continuing care technical bill to be introduced in 2002.

Status of Rules Identified for Repeal in 2001

In the report we submitted December 1, 2000, we identified as obsolete certain rule parts and subparts governing administration of specified therapies to state hospital patients and indicated they would be repealed in a general rewrite of Minnesota Rules, parts 9515.0200 to 9515.0800 early in 2001. The rewrite and the repealers were effective on January 29, 2001.

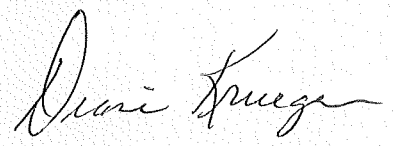
We also indicated we would repeal subparts 3,4,5,6,7,8, and 9 of Minnesota Rules, part 9505.0270 governing Medical Assistance payments for dental services. The repealers, combined with proposed new language, update a 14-year-old rule and simplify the administrative process required for authorizing and paying for dental services. The Department has given notice of its intent to adopt these amendments after holding a public hearing on January 4, 2002.

In 2000 the Department requested and received expedited rulemaking authority to amend and repeal Minnesota Rules, parts 9505.0010 to 9505.0150, Medical Assistance Eligibility Policy, as necessary to remove obsolete parts and bring others into conformance with state and federal law. The Department followed the expedited rulemaking process in 2001 and expects the changes will be effective in January, 2002.

An additional set of DHS rules–parts 9546.0010 to 9546.0060, Relocation of Residents from Long-Term Care Facilities–was repealed legislatively in the 2001 session as obsolete and was replaced by new statutory language enacted as Minnesota Statutes, section 144A.161.

If you have any questions about this report, please call Alice Weck of my staff at 297-4302.

Sincerely,



Diane Krueger, Manager
Administrative Law Section
Appeals and Regulations Division