Minnesota Department of **Human Services**

November 27, 2002

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

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 The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules.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 2003:

- **Minnesota Rules, parts 9505.0185 governing the requirements of a professional services advisory committee to provide consultation to the commissioner on the medical necessity of services.**

By statute, the commissioner is authorized to make determinations of medically necessary services using either a professional services committee or a health care consultant. Historically, the commissioner has used health care consultants to fill this role and the committee has not been established. The statutory authority to establish and utilize this committee will expire in June, 2003. Further, the benefits to be derived from the input of this committee are duplicative of those already provided to the commissioner through the input of the Medicaid Citizens Advisory Committee. A repealer for this provision will be included in a technical bill to be introduced in 2003.

- **Minnesota Rules, parts 9505.0491, subparts 7 and 8 determining medical assistance hourly payment amount for case management services**

Minnesota Rules, parts 9505.0491, subparts 7 and 8, set the parameters within which MA payment rates were set for case management services for persons with serious and persistent mental illness and children with severe emotional disturbance. The rates are now established pursuant to legislation enacted in 2001, therefore, these provisions are obsolete. A repealer for these provisions will be included in legislation to be introduced in 2003.

Status of Rules Identified for Repeal in 2002

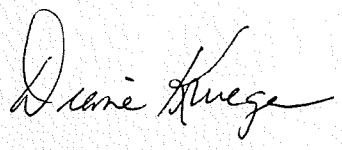
In the report submitted December 1, 2002, we identified as obsolete certain rule parts governing child support incentive awards to county child support enforcement agencies to encourage collection of child support. These rules, parts 9500.1800 to 9500.1821, have been repealed.

We also indicated we would repeal the remaining parts of rules governing community alternatives for disabled individuals under age 65 (Minnesota Rules, parts 9505.3010 - 9505.3140) and rules governing community alternatives for chronically ill individuals under age 65 (Minnesota Rules, parts 9505.3500 - 3700). These repealers were missed during the 2002 legislative session, and will be included in a continuing care technical bill to be introduced in 2003.

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 the changes were effective in January, 2002.

If you have any questions about this report, please call me at 296-5571.

Sincerely,



Diane Krueger
Administrative Law Manager
Appeals and Regulations Division