Minnesota Department of **Human Services**

November 30, 2007

Governor Tim Pawlenty

Greg Hubinger, Director
Legislative Coordinating Commission

Michele Timmons, Revisor of Statutes

Senator John Marty, Chair
Senator Paul E. Koering, Ranking Republican
Senate Health, Housing and Family Security Committee

Senator Linda Berglin, Chair
Senator Michelle L. Fischbach, Ranking Minority Member
Senate Health, Human Services Budget Division

Representative Thomas Huntley, Chair
Representative Jim Abeler, Lead GOP
House Health Care and Human Services Finance Committee

Representative Paul Thissen, Chair
Representative Laura Brod, Lead GOP
House Health and Human Services 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 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 The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules.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."

The Department of Human Services has identified the following rules as obsolete.

Minnesota Rules, part 9505.0335, subpart 1, item F and subparts 3, 4, 6, and 7. These provisions relate to Medical Assistance coverage of personal care services. Legislation regarding coverage for services now supercedes these provisions and has rendered them obsolete. Subpart 1, item F defines a written care plan. This term is now defined by Minnesota Statutes, § 256B.0655, subd. 1c. Subpart 3, regarding training requirements for personal care assistants has been superceded by the requirements in Minnesota Statutes § 256B.0655, subd. 1f (b). Subpart 4 relates to supervision requirements which are now governed by Minnesota Statutes § 256B.0655, subd. 13. Subparts 6 and 7 relate to provider responsibilities. These are now governed by Minnesota Statutes § 256B.0655, subd. 11 and 12. The Department will repeal these provisions during 2008 as part of a larger project using the good cause exemption process to incorporate specific changes in applicable statutes into rule language when no interpretation is required under Minnesota Statutes, section 14.388, subdivision 1 (3).

Minnesota Rules, part 9500.1261, subpart 3, items D and E; and subparts 4, 5 and 6. The listed rule parts relate to Emergency General Assistance. Legislation passed in 2003 (1 SP2003 c 14 art. 1 s 3) altered the EGA program by placing limits on the available funding, eligibility and recipient use. As a result the eligibility guidelines and payment provisions stated in the rule are no longer applicable. Determinations must be based upon the availability of funds. In addition, the rule provisions hampered county efforts to address local and regional emergency situations. The Department will repeal this obsolete provision during 2008 using the process established in Minnesota Statutes, section 14.3895.

Minnesota Rules, part 9555.7700, subpart 3. This subpart conflicts with the statutory reporting requirements provided in the Vulnerable Adults Reporting Act, Minnesota Statutes § 626.557. The Department will repeal this obsolete provision during 2008 using the process established in Minnesota Statutes, section 14.3895.

Status of Rules Identified for Repeal in 2006

Minnesota Rules, Parts 9500.1206, subparts 12i, 12j, 19c and 32a; 9500.1219, subparts 5 and 6; 9500.1223, subpart 4; 9500.1235; 9500.1237, subparts 3 and 5; 9500.1245, subparts 8-9; 9500.1251; and 9500.1259, subpart 1. These provision were identified in 2006 and are in the process of being repealed as part of a larger project using the good cause exemption process of Minnesota Statutes, section 14.388, subdivision 1 (3) to incorporate specific changes in applicable statutes into rule language when no interpretation is required.

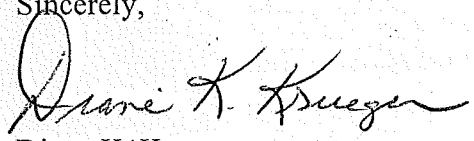
Minnesota Rules, part 9500.1463, subpart 3, item E.; 9500.1655, subpart 3. and 9560.0214, subpart 3. These provisions were repealed in October, 2007 (32 SR 566) using the good cause exemption process of Minnesota Statutes, section 14.388, subdivision 1 (3) to incorporate specific changes in applicable statutes into rule language when no interpretation is required.

Minnesota Rules, part 9500.1126 and part 9550.6220, subpart 6. These provisions were identified in 2006 and will be repealed during 2008, along with other parts identified above, using the process repealing obsolete rules under Minnesota Statutes, section 14.3895.

Minnesota Rules, Parts 9505.1696, subpart 10, and 9505.1709. These parts will be repealed in early 2008 as part of a larger project using the good cause exemption process of Minnesota Statutes, section 14.388, subdivision 1 (3) to incorporate specific changes in applicable statutes into rule language when no interpretation is required.

If you have any questions about this report, please call me at (651)431-3611.

Sincerely,



Diane K. Krueger
Administrative Law Manager
Appeals and Regulations Division

Minnesota Department of **Human Services**

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REVISOR OF STATUTES

May 1, 2008

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Re: Amendment to the 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 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

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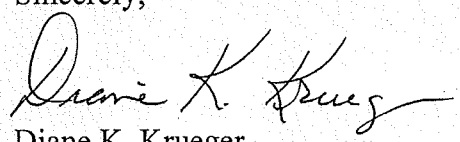
The Department of Human Services is amending the obsolete rule report submitted on November 30, 2007, to add the following rule provision that has been identified as obsolete.

Minnesota Rules, part 9505.0345, subpart 3. This provision relates to medical assistance coverage of physician services provided by a physician's employee in a long-term care facility. The last sentence in the rule requires a physician to review and sign the record of the service that was provided by the physician's employee no later than five days after the date of the service. This provision was enacted to comply with federal laws in effect at the time of adoption. Since the rule was adopted, however, federal law has changed to allow non-physicians to perform more services in long-term care facilities without the review and signature requirement. In addition, community medical standards regarding the provision of services by non-physicians have changed. Non-physicians now perform more services under a physician's general supervision and the physician no longer reviews each individual service. These changes in federal law and in community medical standards have made the review and signature requirement in the last paragraph of part 9505.0345, subpart 3, obsolete. The Department will repeal the physician review and signature requirement in the last paragraph during 2008 using the obsolete rule repeal process under Minnesota Statutes, section 14.3895.

If you have any questions about this report, please call me at (651)431-3611.

Sincerely,



Diane K. Krueger
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