Minnesota Department of **Human Services**

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January 3, 2012

Governor Mark Dayton

Greg Hubinger, Director
Legislative Coordinating Commission

Michele Timmons, Revisor of Statutes

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Senator Tony Lourey, Ranking Minority Member
Senate Health and Human Services Budget and Policy Committee

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

Representative Steve Gottwalt, Chair
Representative Tina Liebling, DFL Lead
House Health and Human Services Reform Committee

Re: Withdrawal of 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 The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules.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 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 submitted its obsolete rule report on December 1, 2011, and amended the report by letter of December 15, 2011 ("Amending Letter"), which identified an additional rule as being obsolete, unnecessary, or duplicative. This letter is to withdraw the amendment for the reasons explained below.

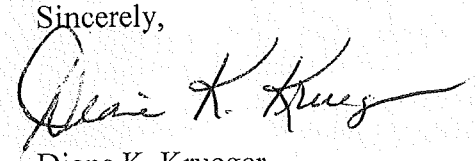
The Amending Letter stated:

> **Minnesota Rules, part 9505.5310, subpart 4, portions of item E.** The provisions are among those that govern a medical assistance demonstration project to determine whether improved access to coverage of pre-pregnancy family planning services reduces medical assistance and other program costs. Item E requires applicants and enrollees to report a change in an eligibility factor within ten days. The obsolete language imposed a sanction for failure to do so, according to which the applicant or enrollee would be ineligible for benefits for a period of twelve months after disenrollment. In accordance with federal eligibility requirements, the Centers for Medicare and Medicaid Services dissuade the department from using eligibility as a sanction. Accordingly, the department is no longer using the language in item E imposing and relating to the sanction, and it is therefore obsolete. The department will repeal the obsolete language using the process established in Minn. Stat. 14.3895.

In a final agreement that DHS reached with CMS on December 29, 2011, which addresses certain family planning program requirements, CMS revised its position concerning the application of federal eligibility requirements and agreed that DHS may retain the above-identified state rule language. Accordingly, the rule provision is not obsolete and DHS does not plan to repeal it.

If you have any questions about this amendment to the 2011 obsolete rules report, please call me at (651)431-3611.

Sincerely,



Diane K. Krueger
Director
Appeals and Regulations Division