CHAPTER 4736
DEPARTMENT OF HEALTH
LOCAL PUBLIC HEALTH ACT

4736.0010 DEFINITIONS.

Subpart 1. **Scope.** The following terms as used in this chapter have the meanings given in this part.

Subp. 2. **Activities.** "Activities" mean the provision or coordination of services to support the program categories listed in subpart 10.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's designees.

Subp. 4. **Community health board.** "Community health board" means a board of health established, operating, and eligible for a subsidy under Minnesota Statutes, sections 145A.09 to 145A.13.

Subp. 5. **Community health plan.** "Community health plan" means the written plan described in Minnesota Statutes, section 145A.10 and part 4736.0030.

Subp. 6. **Community health services.** "Community health services" means services designed to protect and promote the health of the general population within a community health service area. Community health services emphasize the prevention of disease, injury, disability, and death through the promotion of effective coordination and use of community resources. Community health services extend health services into the community. Program categories of community health services include disease prevention and control, emergency medical care, environmental health, family health, health promotion, and home health care.

Subp. 7. **Fiscal year.** "Fiscal year," for subsidies to a community health board, means January 1 through December 31.

Subp. 8. **Local match.** "Local match" means local tax levies, gifts, fees for services, and revenue from contracts as described in Minnesota Statutes, section 145A.13, and part 4736.0090.

Subp. 9. **Plan.** "Plan" means a community health plan as described in subpart 5.

Subp. 10. **Program categories.** "Program categories" of community health services include the following:

A. "Disease prevention and control" means activities intended to prevent or control communicable diseases. These activities include the coordination or provision of disease surveillance, investigation, reporting, and related counseling, education, screening, immunization, case management, and clinical services.

B. "Emergency medical care" means activities intended to protect the health of persons suffering a medical emergency and to ensure rapid and effective emergency medical treatment. These activities include the coordination or provision of training, cooperation with public safety agencies, communications, life-support transportation as defined under Minnesota Statutes, section 144.804, public information and involvement, and system management.

C. "Environmental health" means activities intended to achieve an environment conducive to human health, comfort, safety, and well-being. These activities include the coordination or provision of education, regulation, and consultation related to food protection, hazardous substances and product safety, water supply sanitation, waste disposal, environmental pollution control, occupational health and safety, public health nuisance control,

institutional sanitation including swimming pool sanitation and safety, and housing code enforcement for health and safety purposes.

D. "Family health" means activities intended to promote optimum health outcomes as related to human reproduction and child growth and development. These activities include the coordination or provision of education, counseling, screening, clinical services, school health services, nutrition services, family planning services as defined in Minnesota Statutes, section 145.925, and other interventions directed at improving family health. Family health services must not include arrangements, referrals, or counseling for, or provision of, voluntary termination of pregnancy.

E. "Health promotion" means activities intended to reduce the prevalence of risk conditions or behaviors of individuals or communities to prevent chronic disease and affect other definable advances in health status. These activities include the coordination or provision of community organization, regulation, targeted screening and education, as well as informational and other scientifically supported interventions to foster health by affecting related conditions and behaviors.

F. "Home health care" means activities intended to reduce the ill effects and complications of existing disease and to provide suitable alternatives to inpatient care in a health facility. These activities include the coordination or provision of health assessment, nursing care, education, counseling, nutrition services, delegated medical and ancillary services, case management, referral, and follow–up.

Subp. 11. **Public health nurse.** "Public health nurse" means a person who is licensed as a registered nurse by the Minnesota Board of Nursing under Minnesota Statutes, sections 148.171 to 148.285, and who meets the voluntary registration requirements established by the Board of Nursing.

Subp. 12. **Special project grant.** "Special project grant" means funds that are provided by the commissioner on a categorical basis using procedures similar to those used when the state enters into contracts.

Subp. 13. **Terminate funding.** "Terminate funding" means the loss of funding for the time specified, with no reinstatement of those funds at a later date.

Subp. 14. **Withhold funding.** "Withhold funding" means the temporary loss of funding for the time specified, with reinstatement of those funds at a later date.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0020 PURPOSE OF RULES.

Parts 4736.0010 to 4736.0130 establish planning, reporting, and personnel standards for the distribution of the community health services subsidy under Minnesota Statutes, section 145A.13. This chapter also establishes planning and reporting standards for the distribution of Indian health grants under Minnesota Statutes, section 145A.14. Community health boards must comply with parts 4736.0010 to 4736.0130 and other requirements or procedures in statutes and other applicable rules.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0030 CONTENT AND APPROVAL OF COMMUNITY HEALTH PLAN.

Subpart 1. **General.** The community health board must submit a community health plan in 1991 for the years 1992–1995 and must submit a plan covering the four successive years every four years afterward. The commissioner shall send forms and instructions for the community health plan, and the estimated amount of subsidy available for the next two calendar years, to community health boards no later than January 1 for plans due that calendar year. The community health board must submit the plan to the commissioner's office by October 31. The plan must be in the format required in the forms and instructions.

Subp. 2. **Community participation.** The plan must describe the process used to plan community health services. It must include:

A. A narrative summary of the community assessment process as described in Minnesota Statutes, section 145A.10, subdivision 5.

B. A summary of the process used to encourage full community participation in the development of the proposed community health plan. Participation must include the following:

(1) Written notice of the initiation of the plan development process made to interested persons, including affected providers, consumers, and local government officials. The notice must include the procedures by which persons may participate in that process. It must describe how persons may obtain a summary of the proposed plan and how they may review the entire proposed plan. The notice must be published in a local newspaper and sent to individuals listed on a general roster for community health services mailings maintained by the community health board.

(2) A public meeting at which interested persons will have the opportunity to comment on the proposed plan. A summary of the proposed plan must be made available to interested persons at least 14 calendar days before this meeting. A copy of the proposed plan must be available for public review at a designated place. The public meeting must be held at least 14 calendar days before approval of a proposed community health plan by the county board or boards as described in Minnesota Statutes, section 145A.11.

Subp. 3. **Administrative compliance.** The plan must include documentation of the community health board's compliance with applicable state and federal laws pertaining to the administration of funds. The plan must include information described in items A and B.

A. The community health board must provide information that includes, but is not limited to, the following:

(1) identification of the board and authorization to submit the plan and related documents to the commissioner, including documentation of the legal status of the community health board; and

(2) information about compliance with statutes and rules, documentation of the community participation process required by subpart 2, item B, and documentation that key administrative personnel meet the standards of part 4736.0110.

B. The community health plan must include an annual budget for each of the first two years covered by the plan. The first year's budget must be approved according to Minnesota Statutes, section 145A.11, subdivision 3, before the community health board submits the plan. The second year's budget is a projected budget and must be approved in a similar manner by October 31 of the year before it is to take effect. The budget shall categorize the planned expenditures by program category and source of funds. The planned expenditures must be listed in the same format as expenditures are listed in part 4736.0090, subpart 3, item B.

Subp. 4. **Community health services planning process.** The plan must thoroughly assess health status of the area served by the community health board. The plan must review and analyze current community health services. The plan must identify and prioritize community health problems. The plan must also select interventions to address the priority problems. The plan must meet the requirements of this part, in addition to the requirements of Minnesota Statutes, section 145A.10, subdivision 5.

A. The plan must describe the community health services and the community health board's priority problems, goals, and objectives. It must also describe the methods designed to maintain the community's health. For a priority problem, the plan must include:

(1) a statement of the problem, including a description of supporting rationale;

(2) a goal that describes the outcome if the problem is resolved or reduced;

(3) for each goal, one or more objectives that measure the outcome, such as changes in morbidity, mortality, behaviors, attitudes, knowledge, or improvements in the delivery of services;

(4) a detailed description of how objectives will be reached;

(5) a description of the techniques to be used to evaluate the goal, the objectives, and the methods; and

(6) an identification of specific types of administrative and program support that the community health board will need from the commissioner to meet its goals or objectives.

B. In the plan, the community health board may use the following public health principles as criteria for identifying and addressing problems, goals, objectives, and methods:

(1) plans and interventions focus on the health needs of aggregates;

(2) primary prevention is given priority over secondary and tertiary prevention;

(3) community resources are organized to meet health needs;

(4) consideration is given first to interventions that provide for the greatest good for the greatest number of people;

(5) public health interventions do what others cannot or will not do;

(6) public health interventions are based on scientific principles and epidemiology is the method of inquiry; and

(7) public health interventions use resources efficiently.

C. A community health board's plan must show:

(1) documentation that community assessment results were considered in identifying priority problems in the plan;

(2) methods of achieving objectives that are consistent with the community health board's budget, staff, and other resource allocations;

(3) targeted efforts to address specific problems or populations identified in the plan;

(4) the amount and types of evaluation are consistent with the goals, objectives, and methods;

(5) the personnel standards of part 4736.0110 are met;

(6) program category activities consistent with current scientific knowledge and applicable rules, guidelines, and delegation agreements with the commissioner; and

(7) other community resources and services have been identified and attempts have been made to coordinate them with the plan, where appropriate.

Subp. 5. **Approved plan.** A summary of the approved community health plan must be available from the board upon request to interested persons. A copy of the approved community health plan must be made available for public review at a place designated by the community health board.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0040 PLAN UPDATE.

Subpart 1. **General.** The community health board must submit a community health plan update in 1993 for the years 1994–1995 and must submit a plan update every four years afterward. The commissioner shall send forms and instructions for the plan update and the estimated amount of subsidy available for the next two calendar years to community health boards no later than January 1 for plan updates due October 31 of the same calendar year. Plan updates due October 31 shall cover the two successive calendar years. The plan update must be in the format required in the forms and instructions.

Subp. 2. **Community participation.** A plan update must contain an introduction that includes:

A. A narrative summary of the process used to update the previous plan.

B. A summary of the process used to encourage full community participation in the development of the proposed community health plan update. Participation must include the following:

(1) Written notice of the initiation of the plan update development process made to interested persons, including affected providers, consumers, and local government officials. The notice must include the procedures by which persons may participate in that process. It must describe how persons may obtain a summary of the proposed plan and how they may review the entire proposed plan. The notice must be published in a local newspaper and sent to individuals listed on a general roster for community health services mailings maintained by the community health board.

(2) A public meeting at which interested persons will have the opportunity to comment on the proposed plan update. A summary of the proposed plan update must be made available to interested persons at least 14 calendar days before this meeting. A copy of the proposed plan update must be available for public review at a designated place. The public meeting must be held at least 14 calendar days before approval of a proposed community health plan update by the county board or boards as described in Minnesota Statutes, section 145A.11.

Subp. 3. **Administrative compliance.** The plan update must include any changes to documentation in the plan of the community health board's compliance with applicable state and federal laws on the administration of funds.

A. In the updated plan, the community health board must describe changes to the following information:

(1) identification of the board and authorization to submit the plan and related documents to the commissioner, including documentation supporting the legal status of the community health board; and

(2) statute and rule compliance information, including documentation of the community participation process required by subpart 2, item B, and documentation that key administrative personnel meet the standards of part 4736.0110.

B. The community health plan update shall include an annual budget for each year covered by the plan update. The first year's budget must be approved according to Minnesota Statutes, section 145A.11, subdivision 3, before submitting the plan update. The second year's budget is a projected budget and must be approved in a similar manner by October 31 of the year before it is to take effect. The budget shall categorize the planned expenditures by program category and source of funds. The planned expenditures must be listed in the same format as expenditures are listed in part 4736.0090, subpart 3, item B.

Subp. 4. **Community health services description.** The plan update must describe changes to the previous plan, including changes in the identification and prioritization of community health problems, and the selection of interventions to address the priority problems. In addition to changes to the materials submitted two years previously to meet the requirements of Minnesota Statutes, section 145A.10, subdivision 5, the plan update must include, but not be limited to, the information described in items A to C.

A. A plan update must contain a written description of changes to the community health board's priority problems, goals, and objectives designed to maintain the community's health. Problems, goals, and objectives that have not changed since the previous plan need not be restated in their entirety but may be referenced to the page number where they appear in the previous plan.

(1) A description of a change in a priority problem must include:

(a) a statement of the problem, including a description of supporting rationale;

(b) a goal that describes the outcome if the problem is resolved or reduced or the current outcome if the problem has been resolved;

(c) for each goal, one or more objectives that measure the outcome, such as changes in morbidity, mortality, attitudes, knowledge, or improvements in the delivery of services;

(d) a detailed description of how objectives will be reached; and

(e) a description of the techniques to be used to evaluate the goal, the objectives, and the methods.

(2) A description of a change in a goal must include:

(a) a goal that describes the outcome if the problem the goal addresses is resolved or reduced or the current outcome if the goal has been deleted;

(b) one or more objectives that are measurable statements of outcome, such as changes in morbidity, mortality, behaviors, attitudes, knowledge or improvements in the delivery of services;

(c) a method statement that describes how objectives will be reached; and

(d) a description of the techniques to be used to evaluate the changed goal, the objectives, and the methods.

(3) A change, addition, or deletion in an objective must include:

(a) measurable statements of outcome, such as changes in morbidity, mortality, behaviors, attitudes, knowledge, or improvements in the delivery of services;

(b) a method statement that describes how objectives will be reached; and

(c) a description of the techniques to be used to evaluate the changed objectives and the methods.

(4) An identification of changes to the specific types of administrative and program support that the community health board will need from the commissioner to meet its goals or objectives.

B. A plan update must include a summary of any changes to problems, goals, or objectives that implementation of prior plans may have effected.

C. A community health board's plan update must show:

(1) documentation that community assessment results were considered in changing, adding, or deleting problems in the plan update;

(2) methods of achieving objectives that are consistent with the community health board's budget, staff, and other resource allocations;

(3) targeted efforts to address specific problems or populations identified in the plan update;

(4) the amount and types of evaluation are consistent with the goals, objectives, and methods;

(5) that the personnel standards of part 4736.0110 are met;

(6) program category activities consistent with current scientific knowledge and applicable rules, guidelines, and delegation agreements with the commissioner; and

(7) other community resources and services have been identified and attempts have been made to coordinate them with the plan update, where appropriate.

Subp. 5. **Approved plan update.** A summary of the approved plan update must be available upon request to interested persons and a copy of the approved plan update must be made available for public review at a place designated by the community health board.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0050 REVIEW OF COMMUNITY HEALTH PLAN OR PLAN UPDATE.

The commissioner shall review the community health plan or update to determine a community health board's eligibility to receive a subsidy. To receive a subsidy, the commissioner must find that a community health board's plan or update has met the requirements in parts 4736.0030 and 4736.0040.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0060 NOTIFICATION OF DECISION.

Subpart 1. **Commissioner's notice of decision to approve or refer.** After reviewing the community health plan or plan update, the commissioner shall either approve the plan or plan update, or refer the plan or plan update back to the community health board with comments and instructions for further consideration. The commissioner shall notify the community health board of the decision in writing.

Subp. 2. **Referral back to community health board with comments and instructions for further consideration.** If the commissioner refers the plan or plan update back to the community health board, the commissioner's comments and instructions must include specific actions that the community health board must take for the plan or plan update to be approved.

A. If the actions required of the community health board would not otherwise constitute a revision to the plan or plan update as described in part 4736.0080, the community

health board must comply with the commissioner's instructions within 60 days of the day the instructions are issued and resubmit the plan or plan update to the commissioner.

(1) The commissioner shall act on the resubmission within 35 days by either approving the plan or plan update or referring it back to the community health board with comments and instructions. Failure to act within 35 days constitutes approval.

(2) Two referrals of a plan or plan update back to the community health board that do not result in an approved plan or plan update constitutes a failure to comply with instructions within the meaning of part 4736.0120, subpart 4, and results in termination of subsidy funds under part 4736.0120.

B. If the actions required of the community health board would otherwise constitute a revision to the plan as described in part 4736.0080, then the community health board must comply with parts 4736.0080 and 4736.0120.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0070 REVIEW OF COMMUNITY HEALTH PLAN FOR ADMINISTRATIVE AND PROGRAM SUPPORT.

The commissioner will review the community health plans to coordinate statewide administrative and program support. As described in parts 4736.0030, subpart 4, item A, and 4736.0040, subpart 4, item A, a community health plan must identify specific types of administrative and program support needed to meet its goals and objectives. The commissioner will provide statewide administrative and program support to community health boards to:

A. identify and, if possible, fill unmet needs for local program support;

B. coordinate or combine related activities for maximum effectiveness at the least expense of time and funds;

C. provide a positive and supportive response to local community health planning and program development; and

D. provide leadership to the statewide community health services system.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0080 REVISIONS.

Subpart 1. **General.** Revisions to the community health plan or the annual budgets must follow the procedures in this part. All references in this part to the community health plan or plan also include the plan update as described in part 4736.0040.

Subp. 2. **When a plan must be revised.** A community health plan or annual budget must be revised when there is a substantial change in the plan or budget. A substantial change is a change or expected change that was not anticipated and described in a community health board's plan or budget. The change may result from:

A. a priority problem that was addressed in the plan but that is no longer being addressed in the manner set forth in the plan through objectives and methods;

B. a priority problem that has been added to the plan and is being addressed through objectives and methods;

C. an objective in the plan that is no longer being addressed, or is being dropped or added; or

D. change in a program category expenditure of greater than ten percent of the community health board's total budget.

Subp. 3. **Exceptions.** The following changes are not substantial changes for purposes of subpart 2:

A. a delegation agreement under Minnesota Statutes, section 145A.07;

B. receipt or loss of money that the commissioner makes available to a community health board through special project grants;

C. shifts in activities or budget as a result of new public health initiatives called for by the commissioner;

D. receipt of new private grants or gifts;

E. receipt of new federal or state grants other than through the commissioner; or

F. a modification consistent with the approved plan and approved by the commissioner as not being a substantial change.

Subp. 4. **Procedures for revising a plan.** A community health board must revise its plan according to items A and B.

A. A community health board that determines a substantial change to the plan has occurred must notify the commissioner and revise the plan or budget within 120 days following the process described in part 4736.0040, subparts 2, 3, 4, and 5.

B. If the commissioner determines a substantial change has occurred in a community health plan or budget, the commissioner shall notify the board that it must revise the plan or budget.

(1) Within 35 days after the date the commissioner issues the notice, the community health board must provide the commissioner with written assurances that the board will revise the plan pursuant to the process in part 4736.0030, subparts 2 to 5, or 4736.0040, subparts 2 to 5, as applicable. The board must also supply a timetable for complying. The timetable shall not exceed 90 days from the date the community health board provides the commissioner with the written assurances.

(2) Within 125 days after the date the commissioner issues the notice, the community health board must submit the revised plan or budget to the commissioner for approval.

(3) Within 35 days after the commissioner receives the revised plan or budget, the commissioner shall either approve the revisions or refer the revisions back to the community health board according to part 4736.0060, subpart 2. If the commissioner fails to act within 35 days after receiving the revisions, the revisions are approved.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0090 REPORTING STANDARDS.

Subpart 1. **General.** A community health board shall submit to the commissioner activity reports and expenditure reports on forms provided by the commissioner. The board must complete a separate reporting form for each county that is a party to a joint community health board and for each city within its community health services area receiving a subsidy.

Subp. 2. **Activities report.** The community health board must submit to the commissioner an annual activity report no later than April 15 of the year following the close of each fiscal year for which subsidy was received. A report form must include data on reportable activities that are included in the community health plan. Reportable activities are activities funded by the community health board and its constituent counties through the use of community health services subsidy, local match or special project grants, and other sources of funding for community health services. Reportable activities are limited to program categories included in the approved community health plan or revision.

Subp. 3. **Report of expenditures.** The community health board must report expenditures according to the requirements in items A and B.

A. The community health board must submit to the commissioner an annual expenditure report no later than April 15 of the year following the close of each fiscal year for which a subsidy was received. The annual report must list total expenditures in program categories by source of funds, including the community health services subsidy, local match funds, vaccine allocations from the commissioner, special project grant funding from the commissioner, other sources of state funding, and other sources of federal funding not eligible as local match.

B. The community health board must submit to the commissioner an annual report of local sources of funds. This report must include a detailed account of expenditures of local match funds in program categories. The report must include, but not be limited to:

(1) expenditure of revenue received from local tax levies or from the federal government;

(2) local revenue received from third party payers, including:

(a) revenue received from the federal government under the Social Security Act, Health Insurance for the Aged;

(b) revenue received for services to low-income people for medical assistance and rehabilitation of the aged, blind, disabled, and families with dependent children;

(c) revenue received from the federal government based on Veteran's Administration legislation; and

(d) revenue received from private insurance companies or prepaid health plans;

(3) expenditure of revenue received as a fee for service;

(4) expenditure of revenue received under contracts or grants; and

(5) expenditure of revenue received from gifts, license fees, inspection fees, or other revenue from local regulatory activity.

Subp. 4. **Special reports.** A community health board shall submit to the commissioner data and activity reports that the commissioner requests for the purpose of preparing special or evaluation reports needed to evaluate the efficiency and effectiveness of community health services under Minnesota Statutes, section 145A.12, subdivision 5. The reports must be on forms and follow instructions provided by the commissioner.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0100 INDIAN HEALTH GRANTS.

Subpart 1. **General.** A community health board that applies for an Indian health grant under Minnesota Statutes, section 145A.14, subdivision 2, must follow the procedures in this part.

Subp. 2. **Definition.** For purposes of an Indian health grant, "reside off reservation" means Indian persons not residing on Indian land who are members of an organized tribe, band, or other group of aboriginal people of the United States, having a treaty relationship with the federal government and who are regarded as Indians by the group in which they claim membership.

Subp. 3. **Requirements for applying for Indian health grant.** The community health plan required in parts 4736.0030 to 4736.0080 must:

A. Specifically address parts 4736.0030, subpart 2, and 4736.0040, subpart 2, as they relate to the Indian community affected by the community health plan.

B. Specifically address parts 4736.0030, subpart 4, item A, and 4736.0040, subpart 4, item A, as they relate to the Indian health grant part of the community health plan.

Subp. 4. **Forms and instructions.** Reports must be completed according to forms and instructions provided by the commissioner and contained in the contract requirements of the grant.

Indian health grants must be reported as a special project grant for purposes of part 4736.0090.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0110 PERSONNEL STANDARDS.

Subpart 1. **Purpose of standards.** This part establishes minimum standards for training, experience, and skill for the community health services administrator under Minnesota Statutes, sections 145A.09 to 145A.13. This part does not apply to employees of community health boards with a personnel system approved by the United States Civil Service Commission.

Subp. 2. **Persons who must meet standards.** A community health board must have a community health services administrator. Persons who are appointed as community health services administrators after March 21, 1994, must meet the minimum training and experience standards of this part.

Subp. 3. **Minimum training and experience standards for community health services administrators.** A community health services administrator must have:

A. a baccalaureate or higher degree in administration, public health, community health, environmental health, or nursing, and two years of documented public health experience in an administrative or supervisory capacity, or be registered as an environmental health specialist or sanitarian in the state of Minnesota and have two years of documented public health experience in an administrative or supervisory capacity;

B. a master's or higher degree in administration, public health, community health, environmental health, or nursing, and one year of documented public health experience in an administrative or supervisory capacity; or

C. a baccalaureate or higher degree and four years of documented public health experience in an administrative or supervisory capacity.

Subp. 4. **Community health services administrator skills.** The documented experience of a community health services administrator must include skills necessary to:

A. direct and implement health programs;

B. prepare and manage budgets;

C. manage a planning process to identify, coordinate, and deliver necessary services;

D. prepare necessary reports;

E. evaluate programs for efficiency and effectiveness;

F. coordinate the delivery of community health services with other public and private services; and

G. advise and assist the community health board in the selection, direction, and motivation of personnel.

Subp. 5. **Additional personnel standards.** Persons implementing or supervising community health services programs by agreement with the commissioner shall meet the personnel standards required in those agreements.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0120 WITHHOLDING AND TERMINATING SUBSIDY PAYMENTS.

Subpart 1. **Grounds for withholding or terminating a subsidy.** The commissioner shall withhold, terminate, or require reimbursement of subsidy funds for failure to substantially comply with the terms of the approved plan or budget or with other requirements of parts 4736.0010 to 4736.0130 or other applicable rules or statutes.

Subp. 2. **Reimbursement required.** The commissioner must require reimbursement of expended subsidy funds that are not part of an eligible program category activity or reimbursement of other unauthorized subsidy expenditures that are identified by fiscal audit.

Subp. 3. **Automatic withholding.** If a community health board's plan or plan update is not approved before the beginning of the fiscal year, the commissioner shall begin withholding funds at the beginning of the fiscal year.

Subp. 4. **Failure to comply with referral instructions.** When a community health board fails to comply with the commissioner's instructions from part 4736.0060, subpart 2, the commissioner shall take action described in items A and B.

A. The commissioner shall continue withholding payment of subsidy funds until the community health board has complied with the commissioner's instructions.

B. If the community health board fails to comply with the instructions of the commissioner after a 60–day period or the community health board fails to comply with the instructions of the commissioner after two referrals back to the community health board, the commissioner shall terminate payment of subsidy funds, including those withheld under subpart 3. The commissioner shall terminate funds on a prorated basis for each day the board fails to comply.

Subp. 5. **Failure to revise a plan or budget.** When a community health board fails to revise a plan or budget according to part 4736.0080, subpart 4, item B, the commissioner may take action described in items A to D.

A. If the community health board fails to provide its response and proposed timetable to revise the plan or budget within the 35–day time period in part 4736.0080, subpart 4, item B, subitem (1), the commissioner shall withhold payment of subsidy funds until the community health board has provided the commissioner with its response and proposed timetable to revise the plan or budget.

B. If the community health board fails to provide its response and proposed timetable to revise the plan or budget within 70 days after the commissioner's notice under part 4736.0080, subpart 4, item B, the commissioner shall terminate payment of subsidy funds, including those withheld under item A.

C. If the community health board fails to submit the revised plan or budget to the commissioner for approval within the 125–day time period in part 4736.0080, subpart 4, item B, subitem (2), the commissioner shall withhold payments of subsidy funds until the community health board has submitted the revised plan or budget and the commissioner has approved it.

D. If the community health board has failed to submit its revised plan or budget to the commissioner within 160 days after the commissioner's notice under part 4736.0080, subpart 4, item B, the commissioner shall terminate payment of subsidy funds, including those withheld in items A to C.

Subp. 6. **Failure to provide reports.** Except in cases where a waiver has been granted pursuant to part 4736.0130, the commissioner must withhold payment of subsidy funds if a community health board fails to submit complete and accurate reports as required by part 4736.0090.

Subp. 7. **Appeal procedure for termination of subsidy funds.** A community health board may contest the termination of subsidy funds by requesting a contested case hearing under the Administrative Procedure Act, Minnesota Statutes, chapter 14. The community health board shall submit a written request for a hearing to the commissioner within 15 days after receiving the notice of termination. The request for hearing must state the reasons why the community health board contends the termination should be reversed or modified. At the hearing, the community health board has the burden of proving that it satisfied the commissioner's comments and instructions under part 4736.0060, subpart 2.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*

4736.0130 WAIVER.

Subpart 1. **Waiver of compliance with certain parts.** The commissioner may waive compliance with specific provisions of part 4736.0030, 4736.0040, 4736.0090, 4736.0100, 4736.0110, or 4736.0120 for an individual board of health under the following conditions:

A. the rule, if applied, would impose an undue burden on the board; and

B. the waiver, if granted, will not adversely affect the public health or welfare.

Subp. 2. **Initial application.** A community health board may apply for a waiver under this part according to forms and instructions supplied by the commissioner. The community health board must show:

A. the reasons the board is asking the specific provisions of the rule be waived;

B. the rule, if applied, would impose an undue burden on the board; and

C. the waiver, if granted, will not adversely affect the public health or welfare.

Subp. 3. **Commissioner's decision.** The commissioner shall approve or deny the initial waiver application or renewal application within 60 days after receiving it. The approval or denial must be in writing and must state the reasons for the decision. Failure of the commissioner to act within 60 days after receiving the waiver or renewal application constitutes approval.

Subp. 4. **Limitation.** A waiver shall not be granted for a period longer than two years.

Subp. 5. **Reapplication.** A board of health may reapply for a waiver according to the procedures in subpart 2 and if the community health board shows a continuing need for the waiver.

Subp. 6. **Reporting changes.** A community health board that has been granted a waiver must notify the commissioner of any material change in the circumstances that justified the waiver.

Subp. 7. **Revocation.** The commissioner shall revoke a waiver if the commissioner determines a material change has occurred in the circumstances that justified granting the waiver.

Statutory Authority: *MS s 145A.12*

History: *18 SR 2044*