

9525.0036 DETERMINATION OF NEED.

Subpart 1. **County recommendation for determination of need for services.** For purposes of this part, "determination of need" means the commissioner's determination of need for services by program type, location, demographics, and size of licensed services for persons with developmental disabilities according to Minnesota Statutes, section 252.28.

The host county shall apply for a determination of need by the commissioner upon identifying the need to:

- A. develop new services;
- B. terminate services; or
- C. modify existing services in the form of expansion or reduction of services, or services for which a change of ownership, program, location, or licensure is proposed.

In applying for the determination of need, the host county must use information from the individual service plans of persons for whom the county board is financially responsible and for persons from other counties for whom the county board has agreed to be the host county. The host county shall also consider the community social services plan, waiting lists, screenings, and other sources which identify unmet needs for services. Application for determination of need must be submitted on forms prescribed by the commissioner.

Subp. 2. **Duties of commissioner for determination of need.** The commissioner shall make the determination of need for the program, location, type, size, frequency, ownership, and staffing needs of the service proposed in the county's application. In determining the need for services, the commissioner shall consider whether:

- A. the proposed service, including size of the service, relates to the needs of the persons to be served;
- B. cost projections for the proposed service are within the fiscal limitations of the state;
- C. the distribution of and access to the services throughout the state is based on current or projected demographics, and does not contribute to excessive concentration of services;
- D. the provider has the overall administrative, financial, and programmatic capability to develop, provide, and maintain the services that are proposed;
- E. the application is in compliance with applicable state and federal law and with the state plan;
- F. the proposed service is consistent with the goals under part 9525.0008, subpart 3; and

G. the proposed service furthers state policy of access to residences and employment services typical of the general population.

Within 30 days of receipt of the completed application for need determination from the county board, the commissioner shall notify the county board of the decision. The commissioner may request further information if the proposal is incomplete or waive any part of the application that would require the county to provide information that is already available to the commissioner. The commissioner's decision may include conditions of approval. If the commissioner determines that the service, modification, or expansion is not needed, or the proposal does not meet state fiscal projections or limitations, approval shall be denied and there must be no licensure of or reimbursement from federal or state funds for the proposed service, modification, or expansion.

Subp. 3. **County review of existing programs.** At least every four years, the host county board shall review each service and submit to the commissioner a request for approval of each licensed service located in the county. The county board's review must state whether the county board recommends continuation, modification, discontinuation, decertification, or delicensure of the service. The county board must base its recommendations on the criteria described in subpart 2.

The commissioner shall notify the county board of the decision to approve or deny the need determination, or request additional information within 30 days of receipt of a completed application. The commissioner shall notify the county and the provider of the right to appeal the commissioner's determination according to subpart 4.

If the commissioner accepts the county board's recommendations for program modifications, the host county board shall submit a need determination application according to subpart 1. The service may be modified only after the commissioner has determined the need for the modification according to subpart 2. Counties may review a service at more frequent intervals at their own discretion.

Subp. 4. **Appeal of commissioner's determination.** The county board or the provider making the application may appeal the commissioner's determination under this part.

Appeals are governed by Minnesota Statutes, chapter 14. Notice of appeal must be received by the commissioner within 30 days after notification of the commissioner's decision is sent to the county board.

Statutory Authority: *MS s 256B.092*

History: *18 SR 2244; L 2005 c 56 s 2*

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