

1 Department of Human Services

2

3 Adopted Amendment of the Department of Human Services' Rule

4 Governing Adoption

5

6 Rule as Adopted

7 12 MCAR S 2.200 Adoption.

8 A. Purpose; definitions.

9 1. Goal of the Minnesota adoption program: to ensure for
10 each child, who is free to be legally adopted in the state, a
11 suitable adoptive home and agency services supportive of his or
12 her integration into the new family.

13 2. The terms used in 12 MCAR S 2.200 have the meanings
14 given them.

15 a. "Adoptive home" means a home approved by an
16 authorized child-placing agency for the purpose of placing a
17 child for adoption.

18 b. "Authorized child-placing agency" means the local
19 social service agency or any agency licensed to place children
20 by the commissioner or by a comparable authority in the state or
21 country in which the agency exists.

22 c. "Child" means an individual under 18 years of age.

23 d. "Commissioner" means the commissioner of the
24 Department of Public-Welfare Human Services.

25 e. "Foster family home" means a family home licensed
26 to provide 24-hour-a-day care to children who are unrelated to
27 the family.

28 f. "Genetic parent" means an individual who is
29 referred to as the child's natural birth parent, who is named in
30 the child's original birth certificate as a parent, whose claim
31 to genetic parenthood is unchallenged, or whose genetic
32 parenthood is established by a court of competent jurisdiction.

33 g. "Independent placement" means a proposed or actual
34 nonagency placement of a child by a natural parent or unlicensed
35 third party with persons not related to the child within the
36 third degree.

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- 1 h. "Infant" means a child under the age of 15 months.
- 2 i. "Licensed child-placing agency" means an agency
3 authorized by the commissioner to place children for foster care
4 or adoption.
- 5 j. "Local social service agency" means the local
6 agency under the authority of the county welfare board or human
7 service board responsible for arranging and providing social
8 services to individuals.
- 9 k. "Minority race or minority ethnic heritage" means a
10 legacy of common traits and customs that society recognizes as
11 belonging to a part of the population which differs from its
12 predominant culture or characteristics.
- 13 l. "Placing agency" means the Minnesota licensed
14 child-placing agency which has guardianship of a child from a
15 Minnesota court or the local social service agency which has
16 financial and adoptive planning responsibility for a ward of the
17 commissioner of ~~public-welfare~~ human services. ~~The A placing~~
18 ~~agency retains-adoptive-planning-responsibility~~ may also include
19 a supervisory agency which is providing adoptive planning
20 services for the child ~~even-though-another-agency-is-supervising~~.
- 21 m. "Postplacement services" means social services
22 provided to the child and the adoptive parents from the time of
23 placement until legal adoption.
- 24 n. "Postadoption services" means social services
25 provided after legal adoption to the adoptive parents, genetic
26 parents, or adopted individuals.
- 27 o. "Relative" means an individual who is related to a
28 child within the third degree according to the civil table of
29 consanguinity by blood, marriage, or adoption as a parent,
30 stepparent, brother, sister, grandparent, great grandparent,
31 aunt, uncle, niece, or nephew.
- 32 p. "State adoption exchange" means the central
33 adoptive home and child registration service operated by the
34 Minnesota Department of ~~Public-Welfare's~~ Human Services'
35 adoption unit for use by authorized child-placing agencies.
- 36 q. "State agency" means the commissioner of ~~public~~

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1 welfare human services or the Minnesota Department of Public
2 Welfare Human Services.

3 r. "Subsidized adoption" means an adoption in which an
4 agreement provides that financial payments assistance shall be
5 made to the adoptive parents, subsequent guardian, or
6 conservator because of special needs of a child who is certified
7 as eligible for subsidy.

8 s. "Suitability study" means the preadoptive
9 counseling and subsequent evaluation made by the authorized
10 child-placing agency to determine whether or not the proposed
11 adoptive home can adequately parent and meet the social,
12 educational, and health needs of a particular child.

13 B. Legally freeing a child for adoption.

14 1. Before a valid agency adoptive placement may occur,
15 court termination of the parent's rights under Minnesota
16 Statutes, sections 260.221 to 260.241 or an agreement under
17 Minnesota Statutes, section 259.25 which confers authority to
18 place a child for adoption with the commissioner or a licensed
19 child-placing agency must be obtained from any individual
20 recognized by state law as having parental rights.

21 a. A local social service agency shall seek to free a
22 child for adoption through court termination of parental rights
23 unless the commissioner states in writing that he will accept
24 the agreement conferring authority to place the child.

25 b. On all agency adoptive placement plans, the local
26 social service or licensed child-placing agency shall inform the
27 genetic parent, who is identified on the child's birth
28 certificate by birth registration, affidavit, or court order, of
29 the statutory conditions under which birth certificate
30 information and certain agency record information may or may not
31 be released. The agency shall assist the genetic parent with
32 the procedures in (1)-(3).

33 (1) The genetic parent shall sign an affidavit to be
34 filed in the agency record attesting that the genetic parent has
35 been informed of statutory conditions that affect the agency
36 release or nonrelease of identifying information, such as the

1 genetic parent's name, last known address, birth date, and
2 birthplace, to the adopted person after that person reaches
3 adult age as defined in Minnesota Statutes, sections 259.47 to
4 259.49.

5 (2) The genetic parent may subsequently choose to
6 file or not file in the agency adoption record an affidavit
7 objecting to the agency release of any or all of the identifying
8 information to the adopted person upon that person reaching
9 adult age as specified in Minnesota Statutes, sections 259.47 to
10 259.49.

11 (3) The genetic parent may file an affidavit at any
12 time with the State Registrar of Vital Statistics consenting to
13 or refusing to consent to disclosure of the original birth
14 certificate information to the adopted person after that person
15 reaches adult age as specified in Minnesota Statutes, sections
16 259.47 to 259.49.

17 2. All written consents to adoption, executed in a manner
18 prescribed by Minnesota Statutes, sections 259.24, subdivision 5
19 and 259.25, must be filed with the court prior to the hearing on
20 the adoption petition.

21 3. All agreements with an agency to place a child and
22 consents to adoption by the child's parent or legal guardian,
23 must be executed before two competent witnesses and an agency
24 representative. Consents to an adoption by the child's parent
25 when that parent is either a copetitioner in the adoption
26 proceedings or does not have custody of the child must be
27 executed before two competent witnesses, but need not be
28 executed before an agency representative. All consents by a
29 parent must contain a notice to the parent of the right to
30 revoke the consent for any reason within ten working days of its
31 execution. Consents obtained in another state may be executed
32 according to either Minnesota law or applicable consent laws of
33 the other state.

34 a. The consenter's and the agency representative's
35 signatures must each be duly notarized.

36 b. The two witnesses must be 18 years of age or older

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1 and of sound mind, and neither may be the subscribing notary
2 public.

3 c. The agency representative must be a person
4 qualified to counsel the consenting party on adoption matters.

5 d. Revocation of a parent's consent must be in writing
6 and must be received by the agency no later than the tenth
7 working day after the consent was executed.

8 4. Affidavits submitted by individuals who allege or deny
9 parenthood which contain a consent to adoption must be executed
10 according to the requirements in 3.

11 C. Services for children freed for adoption.

12 1. State photographic adoption exchange. To ensure each
13 child's placement in an adoptive home preferably away from his
14 area of prior residence, the State Adoption Exchange shall be
15 used by all authorized child-placing agencies in accordance with
16 procedures under Minnesota Statutes, section 259.45 and the
17 commissioner.

18 a. Each authorized child-placing agency shall register
19 the child on the exchange using the registration form prescribed
20 by the commissioner accompanied by a recent photograph of the
21 child.

22 b. An authorized child-placing agency seeking to defer
23 registration of the child shall make a written request to the
24 exchange for written approval. The request for deferral must
25 meet one of the conditions in (1)-(6).

26 (1) The child is placed in an agency adoptive home
27 and legal adoption occurs within two years of placement. The
28 agency's report of the adoptive placement to the state agency
29 shall constitute the basis for deferral.

30 (2) The child's foster home is being considered and
31 meets the criteria of C.3. A deferral granted for this reason
32 may not exceed 90 days unless the placement status formally
33 becomes an adoptive placement.

34 (3) The child's prospective adoptive home is being
35 considered. A deferral granted for this reason may not exceed
36 90 days unless an adoptive placement occurs.

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1 (4) The child is undergoing diagnostic evaluation to
2 aid the agency in adoptive planning. A deferral granted for
3 this reason may not exceed 90 days.

4 (5) The child is hospitalized and needs continuing
5 daily care which will not permit placement in a family setting.
6 A deferral granted for this reason may not exceed the length of
7 hospitalization.

8 (6) The child is 14 years of age or older and, after
9 ~~discussion~~ counseling with the agency on permanent placement
10 options, will not consent to an adoption plan. The agency shall
11 then assist the child in executing an affidavit to file with the
12 exchange in which the child states that decision and an
13 awareness that the decision may be changed at any time.

14 2. Special needs. The local authorized child-placing
15 agency shall, without undue delay, seek an adoptive home which
16 will meet the child's special needs. Special needs include
17 sibling ties, minority racial or minority ethnic heritage,
18 religious background, and health, social, and educational needs.

19 a. The placing agency shall follow the order of
20 placement preference and exception guidelines under Laws of
21 Minnesota 1983, chapter 278, section 7, when placing a child of
22 minority race or minority ethnic heritage.

23 b. The adoptive placement of an Indian child who comes
24 under the Indian Child Welfare Act of 1978, United States Code,
25 title 25, sections 19 et seq., as amended through December 31,
26 1982, must follow the order of preference as determined by the
27 child's tribe.

28 c. The placing agency shall document in its record any
29 recruitment efforts it made and any requests or decisions made
30 by the child's parent, the tribe, court, or agency which affects
31 the order of placement preference.

32 3. Recruitment. As required in Laws of Minnesota 1983,
33 chapter 278, section 11, an agency shall make special efforts to
34 recruit adoptive families from among the child's relatives, if
35 feasible, and families of the same minority racial or minority
36 ethnic heritage. The agency may work with various community and

1 religious organizations, as well as the media, and may accept
2 offers of service and monetary contributions to successfully
3 recruit families for adoption.

4 4. The child's foster home. The local social service
5 agency may consider the foster home in which the child is
6 currently living as a potential adoptive resource for the child.

7 a. In such cases the criteria in (1)-(3) apply.

8 (1) The child has special needs as defined in C.2.
9 which the foster family will be able to adequately meet, or the
10 child is older than an infant, has lived at least 12 consecutive
11 months in the foster home, and is an integrated member of the
12 foster family.

13 (2) The foster family will be able to accept the
14 child and his background and help the child understand his
15 adoption.

16 (3) The foster family is either the best adoptive
17 resource for the child or is at least comparable to available
18 resources.

19 b. Except in Hennepin, Ramsey, and St. Louis counties,
20 a joint decision between the state agency's adoption unit and
21 the local social service agency as to whether the foster home
22 would be a suitable adoptive home for the child must be made.
23 The agencies shall base their decision upon:

24 (1) the local social service agency's written
25 statement and recommendation to the state agency identifying
26 applicable criteria; and

27 (2) the state agency's written response either
28 approving or disapproving the recommendation.

29 c. [Unchanged.]

30 5. Child placement. The policies in a. and b. govern the
31 local social service agency's preplacement and postplacement
32 activities.

33 a. Preplacement activities must include those in
34 (1)-(5).

35 (1) The adoptive family's agency shall, prior to the
36 child being placed in an adoptive home, meet with the child's

1 agency in a preplacement conference, obtain written background
2 and health history on the child, and visit the child in his
3 foster home. The preplacement conference may only be waived if
4 the child is under six months of age and is without special
5 needs.

6 (2) The child's agency shall prepare the child for
7 adoptive placement and provide the adoptive parents with a
8 written nonidentifying background and health history of the
9 child in which all identifying information on the child's
10 relatives has been omitted. The history is to be written in a
11 manner which is understandable and meaningful to the adoptive
12 family.

13 (3) [Unchanged.]

14 (4) The adoptive parents shall enter into a written
15 adoptive placement agreement with the commissioner.

16 (5) During the time the child resides in the
17 adoptive home, the local social service agency shall continue
18 administrative reviews but is not required to schedule a court
19 dispositional hearing unless the child is either removed from
20 the home or is not legally adopted within two years of the date
21 of placement.

22 b. Postplacement activities must include (1) and (2).

23 (1) The agency placing the child shall arrange for
24 and obtain written placement and postplacement reports from the
25 agency supervising the child in the adoptive home.

26 (2) The supervising agency shall provide
27 postplacement counseling with the adoptive parents in a manner
28 that enables the child and adoptive family to become an
29 integrated family.

30 6. Subsidized adoptions. Subparts a.-h. provide
31 standards for determining a child's eligibility for subsidy and
32 the criteria for establishing the terms of the subsidy agreement
33 subject to the commissioner's approval. Subsidized adoption is
34 based upon the needs of the child who is certified as eligible
35 for subsidy and is available through the commissioner for a
36 child under legal guardianship of the commissioner or a licensed

1 child-placing agency. The commissioner may review and verify
2 the facts upon which the child's eligibility is based.

3 a.-b. [Unchanged.]

4 c. The placing agency shall certify the child as
5 eligible for subsidy. The certification must be in writing and
6 signed by the director of the placing agency or the director's
7 designee. The certification must include the conditions and
8 circumstances upon which the child's eligibility is based, and
9 must be sent to the commissioner. A child is eligible for a
10 subsidy when the child's situation meets the criteria in
11 (1)-(5). When a child is placed into a prospective adoptive
12 home without a subsidy but the need for subsidy becomes evident
13 prior to legal adoption, the child-placing agency shall apply
14 only the criteria in (1), (3), and (5) to determine the child's
15 eligibility.

16 (1) To be eligible, a child must be a Minnesota
17 resident and a ward of the commissioner or a licensed
18 child-placing agency.

19 (2) The agency shall make an early determination on
20 the availability of a home without subsidy, preferably within
21 two months of the time the child becomes legally available for
22 adoption.

23 (3) A child is eligible for subsidized adoption by
24 the child's foster parents if the following criteria are met and
25 documented:

26 (a) The child's foster parents desire to adopt
27 the child;

28 (b) The agency determines that adoption by the
29 child's foster parents is in the best interest of the child,
30 according to the criteria in C.4.; and

31 (c) The child's circumstances or characteristics
32 make it difficult for the agency to provide the child with an
33 adoptive home without a subsidy.

34 (4) The placing agency has made reasonable efforts
35 without success, including the efforts in (a)-(c), to place the
36 child without subsidy.

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1 (a) [Unchanged.]

2 (b) The agency shall contact Hennepin, Ramsey,
3 and St. Louis counties and Minnesota-based licensed
4 child-placing agencies to seek potential adoptive homes.

5 (c) The agency may use photo listing services,
6 adoption exchange services, newsletters, or other special
7 efforts to secure a home.

8 (5) The agency shall determine the child's
9 eligibility for adoption assistance under Title IV-E of the
10 Social Security Act, United States Code, title I, section 101,
11 as amended through December 31, 1982.

12 d. When determining the amount of subsidy required to
13 meet the child's needs, the placing agency shall consider the
14 financial resources, social security and veterans benefits,
15 health insurance coverage, medical assistance programs, and
16 other resources, ~~including the adoptive parent's resources~~ which
17 are available or which may be available to the child.

18 (1) The placing agency shall document the amount of
19 the child's maintenance needs for food, clothing, and shelter
20 which cannot be met by adoptive parent and other financial
21 resources. The monthly maintenance subsidy payment may be less
22 than or equal to the following maintenance standards:

23	Age	Monthly Maintenance Subsidy
24	0 - 5	\$200
25	6 - 11	230
26	12 - 14	260
27	15 - 18	290

28 The state agency shall ~~biannually~~ annually review and
29 adjust the maintenance rate schedule.

30 (2) The placing agency shall determine the medical,
31 dental, surgical, psychiatric, and psychological expenses, and
32 other related costs necessary for the child's care and
33 well-being. In determining the costs, the placing agency shall
34 identify the child's circumstances or conditions that require
35 subsidy. The placing agency shall document:

36 (a) The kind and amount of health insurance or

1 other medical financial resources including eligibility for
2 medical assistance available to meet the needs of the child.

3 (b) The actual or estimated expenses for medical,
4 dental, surgical, psychiatric, psychological, or other related
5 needs of the child when these are not covered by health
6 insurance, medical assistance, or other alternative financial or
7 medical resources.

8 (3) The placing agency shall determine whether the
9 child has additional expenses or other costs not included in (1)
10 and (2) which are necessary for the child's care and well-being,
11 including the purchase of services, items, or equipment not
12 provided by other community resources. The placing agency shall
13 specify and document the child's special cost needs and document
14 the-actual-or-estimated-expenses-required-to-meet-these-needs
15 which are in excess of (1) and (2) according to criteria level
16 (a), (b), (c), or (d).

17 (a) The child is self-motivated, but due to
18 physical, mental, emotional, or behavior conditions, has one or
19 more of the following needs:

20 (i) requires assistance and training in
21 dresssing, eating, hygiene, or moving from place to place;

22 (ii) requires an undue amount of attention
23 that disrupts the family's daily structure;

24 (iii) must have a regimented daily routine;

25 (iv) requires consistent bimonthly or more
26 frequent contact with specialized community programs and
27 facilities or professional resources;

28 (v) causes damage or destruction of the
29 environment because of behavior or use of special equipment; or

30 (vi) exhibits dependency needs in an inability
31 to bond or relate to others, withdrawal, passive aggressive
32 behavior, or delayed maturation.

33 The monthly rate under criteria (a) shall be \$150.

34 (b) The child's chronic physical, mental, or
35 emotional condition requires one or more of the following:

36 (i) ongoing daily care and assistance due to

1 profound mental retardation or multiple handicaps;

2 (ii) continuing training and mastery of a
3 specialized communication technique with family members learning
4 the skill;

5 (iii) communication skill is mastered but is
6 time consuming;

7 (iv) weekly or more frequent in-home therapy
8 toward managing physical, emotionl, or behavioral difficulties;
9 or

10 (v) weekly or more frequent use of community
11 health, special educational, and rehabilitation resource.

12 The monthly rate under criteria (b) shall be \$275.

13 (c) The child's acute or chronic physical,
14 mental, emotional, or behavioral condition is severe and
15 requires one or more of the following:

16 (i) controlling the child's interaction within
17 the family and in the community;

18 (ii) restructuring of the home to physically
19 accommodate the child;

20 (iii) monitoring the child's condition daily
21 to anticipate emergency medical distress;

22 (iv) hourly management of the child's
23 behavior; or

24 (v) diagnoses of an acute condition has been
25 completed and psychological intervention has begun.

26 The monthly rate under criteria (c) shall be \$400.

27 (d) The child's only alternative is
28 institutionalization or professional care due to chronic or
29 acute physical, mental, or emotional condition. The child
30 requires all of the following:

31 (i) total 24-hour care and supervision by a
32 trained caregiver;

33 (ii) monitoring of child's condition,
34 medication, or equipment on a 24-hour basis;

35 (iii) use of multiple specialized community
36 programs, facilities, and professional resources to maintain the

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1 child in the home; and

2 (iv) requirement of institutional or
3 paramedical skilled care at the time of family respite care.

4 The monthly rate under criteria (d) shall be \$500.

5 The placing agency shall include appropriate medical,
6 psychological, or psychiatric evaluations that document the
7 level of the child's special needs.

8 The state agency shall annually review and adjust the rate
9 schedule for special needs.

10 (4) The agency record and the subsidy agreement must
11 include all relevant facts upon which subsidy payments are based
12 and the amount and frequency of payments. If the amount and
13 frequency of payments are unknown, estimates and the basis for
14 estimates must be included.

15 e. The placing agency shall prepare in writing the
16 Subsidized Adoption Agreement clearly setting forth the
17 responsibilities of all the parties and the terms and duration
18 of the agreement.

19 (1) The agreement shall state the responsibilities
20 of the parties as follows.

21 (a) The adoptive parents, or in the event of
22 their death or inability to function as parents, the subsequent
23 guardian or conservator, shall agree to:

24 (i) Submit to the commissioner an annual
25 affidavit within 30 days of the anniversary date of the approved
26 agreement which certifies whether the child remains under their
27 care and the need for subsidy continues to exist. The
28 information in the affidavit may be verified by the commissioner.

29 (ii) Notify the commissioner in writing within
30 30 days in the event of a change in the child's status caused by
31 one of the events in (aa)-(dd) and its effect on the expenses
32 covered by the subsidy.

33 (aa) Marriage of the child or a parent.

34 (bb) The child's absence from the home by
35 court action or for any reason for a period of more than 30 days.

36 (cc) Death of the child or a parent.

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1 (dd) Legal emancipation of the child.

2 (iii) Notify the commissioner in writing
3 within 30 days of any change which may affect the duration or
4 amount of the subsidy needed.

5 (iv) Notify the commissioner in writing within
6 30 days of a change in address to ensure proper mailing of
7 payments.

8 (v) Participate in and use health insurance,
9 medical assistance, and financial programs available for the
10 child.

11 (vi) Notify the commissioner in writing at
12 least 30 days before a planned medical or special expense
13 covered in the agreement is incurred to ensure prompt payment
14 after expense statements are submitted to the commissioner.

15 (vii) Notify the commissioner in writing soon
16 after an emergency of the anticipated cost so that the
17 commissioner may begin to budget for that expense.

18 (viii) Submit expense statements to the
19 commissioner to receive subsidy payments for costs incurred
20 according to the agreement other than the agreed-upon monthly
21 payments.

22 (b) The placing agency shall agree to:

23 (i) specify in the agreement:

24 (aa) the terms and duration of the subsidy
25 as defined in d.; and

26 (bb) the effective date of the agreement,
27 which is the date of legal adoption. When the child's needs
28 cannot be met by state and federal programs or other available
29 resources prior to legal adoption, the commissioner shall
30 establish an earlier effective date between the child's
31 placement in the adoptive home and legal adoption;

32 (ii) assist the adoptive parents, subsequent
33 guardian, or conservator in the review or modification of the
34 agreement; and

35 (iii) assist the commissioner in the review or
36 modification of the agreement.

1 (c) The commissioner shall agree to make the
2 payments in (i)-(iii) to the adoptive parents, subsequent
3 guardian, or conservator. Payments may be terminated at the
4 written request of the adoptive parents, subsequent guardian, or
5 conservator:

6 (i) Payments for adoptive placement or legal
7 decree of adoption, regardless of the domicile or residence of
8 the adoptive parents, subsequent guardian, or conservator at or
9 after the time of application;

10 (ii) Monthly payments for the agreed upon
11 maintenance costs and other regular costs;

12 (iii) Payments based upon the expense
13 statements received from the adoptive parents, subsequent
14 guardian, or conservator for the child's medical or special
15 expenses according to the agreement.

16 (2) When the terms and duration of the subsidy are
17 agreed upon by the parties, the placing agency shall:

18 (a) prepare six written copies of the agreement;

19 (b) ensure that all copies are signed by the
20 adoptive parents and the placing agency director or designee;
21 and

22 (c) submit all copies to the State Adoption Unit
23 for the commissioner's approval.

24 (3) Upon the commissioner's approval, copies of the
25 agreement shall be distributed to the adoptive parents and the
26 placing agency. The state agency shall establish an account to
27 reimburse the adoptive parents, subsequent guardian, or
28 conservator upon the effective date of the agreement or, in
29 instances when monthly payments are made, the month beginning
30 closest to the effective date.

31 (4) The subsidy agreement shall continue in
32 accordance with its terms as long as the need for subsidy
33 continues and the child remains the legal dependent of the
34 adoptive parents, subsequent guardian, or conservator.

35 (5) [Unchanged.]

36 (6) The adoptive parents, subsequent guardian, or

1 conservator may request modification or termination of the
2 agreement at any time by a written contact with the placing
3 agency or the commissioner.

4 (7) The adoptive parents, subsequent guardian, or
5 conservator have the right to appeal to the commissioner
6 pursuant to Minnesota Statutes, section 256.045, when the
7 commissioner denies, discontinues, or modifies the agreement.
8 The appeal must be initiated by a written request to the
9 commissioner within 30 days after receiving written notice of
10 the action or decision from the commissioner or within 90 days
11 if the parents show good cause why the request was not submitted
12 within the 30-day time limit.

13 f. Subsidy payments received according to the terms of
14 the agreement do not affect eligibility for any other financial
15 payments. These other financial payments include social
16 security, veterans, or other benefits, to which a person may
17 otherwise be entitled.

18 g. The placing agency shall receive a reimbursement
19 from the commissioner to the extent appropriations are available
20 up to 100 percent of the reasonable and appropriate cost of
21 providing or purchasing adoption services for a child certified
22 as eligible for a subsidy, including, when necessary, adoptive
23 family recruitment, counseling, special training, and legal fees
24 for finalization. The criteria for reimbursement are:

25 (1) The child meets the certification requirements
26 of c.

27 (2) [Unchanged.]

28 (3) The placing agency has determined that either
29 the partial or full cost of providing or purchasing the adoption
30 services is not reimbursable under other state and federal
31 financial programs.

32 (4) The placing agency shall submit the proposed
33 purchase of service agreements to the commissioner for approval
34 and for review of anticipated expenses when a purchase of
35 service is used.

36 (5) [Unchanged.]

1 (6) The placing agency shall submit an itemized
 2 statement of expenses to the State Adoption Unit for
 3 reimbursement prior to June 30 of each fiscal year.

4 (a) [Unchanged.]

5 (b) The commissioner shall reimburse the placing
 6 agency to the extent appropriations are available up to 100
 7 percent of the expenses that are not reimbursable under other
 8 state and federal programs.

9 h. The commissioner shall work with American Indian
 10 child adoption organizations able to be licensed as child-
 11 placing agencies. American Indian children, who are protected
 12 under the Federal Indian Child Welfare Act of 1978, United
 13 States Code, title 25, sections 19 et seq., as amended through
 14 December 31, 1982, and who are certified as eligible for subsidy
 15 shall, whenever possible, be served by the tribal governing
 16 body, tribal courts, or a licensed Indian child-placing agency.

17 7. Termination of adoptive placement.

18 a. The local social service or licensed child-placing
 19 agency supervising the child shall notify the state agency's
 20 adoption unit within five working days that the child's adoptive
 21 placement is terminated when one of the following circumstances
 22 arise:

23 (1) [Unchanged.]

24 (2) The child dies;

25 (3) The adoptive placement has continued for two
 26 years without the formalization of the adoption; or

27 (4) [Unchanged.]

28 b. Termination of the adoptive placement by a local
 29 social service agency may be made only upon a specific finding
 30 of good cause by responsible agency personnel. Good cause
 31 exists when the placement is shown to be detrimental to the
 32 physical, mental or emotional well-being of the child or the
 33 adoptive parents. Prior to seeking the removal of the child
 34 from the home, the agency shall:

35 (1) inform the adoptive parents in writing of the
 36 reasons for removal; and

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1 (2) in an emergency situation involving danger to
2 the child's health or well-being, request the assistance of the
3 appropriate law enforcement authorities in the immediate removal
4 of the child from the home.

5 D. Services to children in independent placements.

6 1. When the local social service agency learns that the
7 child's parent or relative seeks to place the child for the
8 purpose of adoption with a person who is an extended family
9 member not defined in A.2.o. as a relative or is personally
10 known to the child's parent, the agency shall:

11 a. evaluate with the child's parent whether the
12 placement will be in the interest of the child;

13 b. arrange for a preadoption evaluation of the
14 proposed home when it is needed to determine whether the
15 placement plan is suitable for the child;

16 c. assist the child's parents in legally freeing the
17 child for adoption; and

18 d. arrange the adoptive placement according to
19 procedures in C., unless a court of competent jurisdiction has
20 determined that the best interests of the child are served by
21 waiving the requirement of agency placement.

22 2. When the local social service agency is informed by
23 the commissioner that a court of competent jurisdiction has
24 waived the agency placement requirement, whether or not the
25 child is already in the home:

26 a. the local social service agency shall pursue
27 licensing that home for foster care unless an adoption petition
28 has been properly filed; and

29 b. the prospective parents shall notify the
30 commissioner of the child's placement within 30 days of that
31 placement unless the commissioner was already involved in the
32 proposed placement.

33 3. When the local social service agency learns that the
34 child's parent or the prospective parent desires the adoptive
35 placement of the child through the assistance of an unlicensed
36 intermediary, the local social service agency shall take

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1 necessary steps, including legal actions, if necessary, to
2 prohibit the placement.

3 4. When the local social service agency learns that the
4 child's parent, legal guardian, prospective parents, or the
5 unlicensed intermediary desire to transport the child into or
6 out of Minnesota for adoptive placement, the local social
7 service agency shall advise the party or parties that the
8 transportation requires the prior approval and consent of the
9 commissioner.

10 a. The commissioner shall not give consent to or
11 approval of importation or exportation of the child when a
12 proposed placement was or is being arranged by an unlicensed
13 intermediary even though a court of competent jurisdiction may
14 waive the requirement of agency placement.

15 b. Applications for importation or exportation of a
16 child must be made by the child's parent or legal guardian
17 according to the statutory provisions of both the sending and
18 the receiving states.

19 5. When the local social service agency learns that a
20 child is residing in a nonrelative home for the purpose of
21 adoption, it shall carry out the duties of the commissioner and
22 provide all appropriate child protection services prescribed in
23 the Public Welfare Licensing Act under Minnesota Statutes,
24 sections 245.781 to 245.812 and 252.28, subdivision 2,
25 child-placing under Minnesota Statutes, sections 257.03, 257.04,
26 and 257.40, and the Juvenile Court Act under Minnesota Statutes,
27 chapter 260.

28 a. Local social service agency actions include:

29 (1) ensuring that the child is returned to a
30 responsible person or agency in the state of origin when the
31 child was imported into Minnesota in violation of statutes;

32 (2) obtaining temporary legal custody;

33 (3) placing the child into a licensed foster home or
34 licensing the current home;

35 (4) providing services to the child's parents in
36 making appropriate permanent plans for the child.

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1 b. In addition, within 30 days of learning that a
2 child resides in a nonrelative home for the purpose of adoption,
3 the local social service agency shall submit to the state agency
4 a full written report of its investigation of the proposed or
5 actual placement. The report shall include:

6 (1) names and addresses of the child's parents, the
7 child, and the intended home;

8 (2) the names, addresses, dates, and the activities
9 of all individuals involved in the independent placement plan;

10 (3) the circumstances surrounding the placement
11 plan; and

12 (4) any compensation, promise of payment,
13 solicitation, receipt of payment by any person to any person for
14 placing or assisting in the placement of the child.

15 c.-d. [Unchanged.]

16 E. Services to families applying for adoption.

17 1. Each local social service agency shall establish a
18 written intake policy, including social service fees when
19 applicable, which provides for:

20 a. performance of a suitability study upon the receipt
21 of a properly filed adoption petition;

22 b. screening of applications received from potential
23 adoptive parents for children under state guardianship and other
24 adoptable children who have special needs;

25 c. supervision of adoptive families moving into
26 Minnesota when so requested by the prior state of residence
27 through the state agency's adoption unit; and

28 d. performance of suitability studies on prospective
29 families when requested by the state agency's adoption unit for
30 out-of-state adoption agencies.

31 2. Local social service agencies shall consider at a
32 minimum the basic standards in a., b., and c. when determining
33 the suitability of prospective adoptive parents.

34 a. The applicant shall be primarily motivated to meet
35 the child's needs, emotionally mature with healthy interpersonal
36 relationships, in good physical and mental health, and able to

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1 adequately support and parent a child in a healthy and
2 emotionally secure environment.

3 b. The applicant shall have the capacity to accept and
4 incorporate into his family a child born to other parents and to
5 assist the child in understanding his genetic background and
6 adoption.

7 c. The applicant, who desires to adopt a child of
8 minority race or minority ethnic heritage, shall demonstrate an
9 understanding and appreciation of the minority heritage and an
10 ability to assist the child with it.

11 3. The local social service agency is responsible for
12 determining the suitability of adoptive parents whom it has
13 accepted for service.

14 a. Prospective adoptive parents which the local social
15 service agency certifies as suitable for placement of a child
16 shall be registered on the State Adoption Exchange. This
17 requirement is optional for Hennepin, Ramsey, and St. Louis
18 social service agencies.

19 b. Prospective adoptive parents deemed unsuitable by
20 the local agency shall be informed in writing of that decision.
21 Notification must be sent after the agency has counseled with
22 the family on the relevant facts upon which the decision was
23 based.

24 (1) Prospective adoptive parents which the local
25 agency determines are not suitable for an adoptive placement may
26 be further reviewed by that agency, the county welfare or human
27 service board, or the state agency's adoption unit upon the
28 written request of the applicant. This review is limited to
29 those factors on which the local agency based its decision.

30 (2) Grievances arising out of adverse suitability
31 studies are not subject to further administrative review
32 pursuant to Minnesota Statutes, chapter 15, or Minnesota
33 Statutes, section 256.045.

34 F. Interstate and international adoptive placements.

35 1. No child may be brought into or sent out of Minnesota
36 for adoptive placement into a nonrelative's home unless one of

1 the following conditions is met:

2 a. The commissioner, as state administrator of the
3 Interstate Compact on the Placement of Children, issues written
4 approval for the importation or exportation pursuant to the
5 requirements of that Compact; or

6 b. The commissioner has, in non-Compact situations,
7 issued a written consent to importation or exportation of the
8 child, pursuant to applicable state law.

9 2. The commissioner shall not issue consent or approval
10 for the movement of a child across state lines if the proposed
11 placement is planned or made by an unlicensed third party.

12 3. The commissioner, upon receipt of all required
13 documentation, shall issue consent or approval for importation
14 when:

15 a. the foreign country allows the child to be exported
16 for the purpose of adoption in the United States;

17 b. an authorized child-placing agency in the sending
18 state has adoptive planning rights to the child and requests the
19 importation into Minnesota; or

20 c. a family plans to move to Minnesota and has a child
21 placed with them according to the laws of the other state or
22 country.

23 4. The documents required for the commissioner's consent
24 and approval are:

25 a. an authorized child-placing agency's written
26 confirmation that the family is approved for adoptive placement;

27 b. a document which identifies the child, his birth
28 date, birthplace, and his parentage; and

29 c. legal documents which demonstrate that the child
30 has been properly released for adoption.

31 5. Local social service agencies, other than Hennepin,
32 Ramsey, and St. Louis counties, shall route correspondence
33 directed to out-of-state agencies through the state agency's
34 adoption unit.

35 G. Legalization of the adoptive placement.

36 1. The commissioner or an authorized child-placing agency

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1 shall initiate the process of legalizing adoptive placements of
2 agency-placed children by sending the petitioner, or his
3 attorney, such nonidentifying information as is needed for
4 completion of the adoption petition.

5 2. When an adoption petition which fails to meet the
6 filing requirements of Minnesota Statutes, section 259.22,
7 subdivisions 2 and 3 is nevertheless filed in a court of
8 competent jurisdiction, the commissioner shall recommend to the
9 court dismissal of that petition.

10 3. The final report and recommendation on a properly
11 filed petition of an investigation by the commissioner or an
12 authorized child-placing agency shall be made to the court
13 within the 90-day time period.

14 a. The report and recommendation to the court on the
15 form prescribed by the commissioner shall verify the allegations
16 in the petition, determine whether the child is a proper subject
17 for adoption, and ascertain the suitability of the proposed
18 family and child to each other. When the child's placement was
19 arranged through the agency, the report shall also include a
20 statement on how the agency applied the order of placement
21 preference in C.2. in selecting the adoptive family. On
22 intercounty adoptions, the order of placement preference is
23 deemed to have occurred when the appropriate authority in the
24 child's country of birth approved the placement of the child
25 abroad.

26 b. The commissioner or an authorized child-placing
27 agency shall request a continuance of the court when the
28 investigation cannot be completed in the 90-day time period.

29 c. A copy of all requests for continuances must be
30 filed with the state agency's adoption unit, the servicing
31 agency, and the petitioner's attorney.

32 H. Postadoption services.

33 1. Authorized child-placing agencies shall provide
34 reasonable postadoption assistance and counseling services
35 pursuant to Minnesota Statutes, sections 259.47 and 259.49 to
36 adoptive parents, genetic parents, adult genetic siblings, and

1 adopted persons who have reached the age of 19 at their request
 2 in a manner which strengthens the adoption contract and complies
 3 with Minnesota Statutes, sections 259.27, subdivision 3, 259.31,
 4 and 259.47, subdivision 4 and applicable federal regulations on
 5 confidentiality and privacy of child welfare and adoption
 6 records. The agency shall:

7 a. prepare general background and health information
 8 with the deletion of all identifying information such as names,
 9 specific dates, addresses, and locations, to aid the adoptive
 10 parents of a minor child or the adopted adult 19 years of age or
 11 older in understanding his genetic background and adoption;

12 b. contact any one of the parties, in a personal and
 13 confidential manner;

14 c. provide the services requested when there is a
 15 mutual desire to receive or share information or to have contact;

16 d. provide services to adult genetic siblings where
 17 the agency has determined that:

18 (1) there is no known violation of confidentiality
 19 of a genetic parent who is unknown to the genetic siblings or is
 20 deceased; or

21 (2) the genetic parent has given written consent in
 22 order to allow the agency to provide the services requested;

23 e. provide services to a genetic relative for
 24 information or contact upon the written consent of the genetic
 25 parent or verification that the genetic parent is deceased;

26 f. share with the requesting person what options the
 27 agency may consider using to locate the other person; and

28 g. determine the extent and frequency to which the
 29 person contacted wishes to share information or have contact
 30 whether directly or through the agency.

31 2. Upon notice from the state agency adoption unit that
 32 the adopted adult of the age specified in the statute requests
 33 the original birth certificate, authorized child-placing
 34 agencies shall locate and notify each genetic parent named on
 35 that certificate. The agency shall:

36 a. make complete and reasonable efforts within six

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1 months to locate and notify the genetic parent in a personal and
2 confidential contact of the right to file an affidavit with the
3 state registrar and the effects of filing within the time
4 allowed an affidavit of disclosure or nondisclosure, or of
5 filing nothing, on the original birth certificate information;
6 and

7 b. file through the state agency adoption unit the
8 agency affidavit of notification for the state registrar that
9 each named genetic parent was located and notified, was not
10 located and notified, or was found to be deceased.

11 3. An authorized child-placing agency shall, as required
12 by Minnesota Statutes, section 259.47, subdivision 1, make a
13 diligent effort to locate and inform genetically related persons
14 of the medical or genetic information the agency has received.
15 If the genetically related person is an adopted minor, the
16 agency shall relay the information to the adoptive parent,
17 subsequent guardian, or conservator. The agency shall make a
18 diligent effort to notify the genetic parents when the agency
19 learns that the adopted person has died.

20 4. Adopted persons of adult age placed for adoption by an
21 authorized agency on or after August 1, 1982, may, under
22 Minnesota Statutes, section 259.47, subdivision 3, upon reaching
23 adult age, request from the placing agency the name, last known
24 address, birth date, and birthplace of the genetic parents who
25 were identified on the adopted person's original birth
26 certificate. The agency shall:

27 a. determine that the agency has on file the genetic
28 parent's affidavit attesting to receipt of information in the
29 provisions of Minnesota Statutes, section 259.47, subdivision 3;

30 b. determine that the genetic parent either has not
31 filed a subsequent affidavit objecting to the release of
32 identifying information or has withdrawn that affidavit;

33 c. disclose the identifying information to the adopted
34 person when condition a. is met and when the agency has verified
35 that condition b. exists or that the genetic parent is deceased;
36 and

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1 d. contact the genetic parent if requested by the
2 court upon the adopted person's petition for release of
3 identifying information. The agency shall advise the genetic
4 parent of the opportunity for that genetic parent to present
5 evidence to the court, either directly or through the agency,
6 that nondisclosure of the information is a greater benefit to
7 the genetic parent than disclosure to the adopted person.

8 5. Authorized child-placing agencies shall provide
9 liaison and skilled counseling services through appropriately
10 trained social workers to the adoptive parents, adopted adults
11 who have reached the age of 19, genetic parents, and adult
12 genetic siblings.

13 6. Authorized child-placing agencies shall document the
14 postadoption services provided in the agency's adoption service
15 record.

16 7. Authorized child-placing agencies may require a
17 reasonable expense reimbursement for providing postadoption
18 services.

19 I. Maintenance of adoption records.

20 1. The adoption records of authorized child-placing
21 agencies shall contain copies of all relevant legal documents,
22 responsibly collected genetic, medical, and social history, the
23 child's placement record, documentation of the placement
24 preference in C.2., copies of all pertinent agreements or
25 contracts, copies of all reports and recommendations to the
26 court, and copies of all pertinent correspondence and a summary
27 of postadoption services. Nonidentifying information in the
28 agency record may be disclosed to the parties it concerns
29 according to the criteria in C.5.a.(2) and H.1.a. Identifying
30 information may not be disclosed except under Minnesota
31 Statutes, sections 259.31, 259.47, subdivision 3, and 259.49.
32 The agency shall maintain a record of the postadoption services
33 provided under H.1.-7. Disclosure of identifying information
34 within the standards of H.4. does not constitute disclosure of
35 the agency's adoption record.

36 2. Each adoption record constitutes the permanent record

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1 upon which all court action is based, agency services are
2 administrated, and the adoptive family unit is identified and
3 established.

4 3. All adoption records are confidential and permanent.
5 Adoption records must be retained under a protected record
6 system which ensures confidentiality and lasting preservation.