

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Community Alternative Care
4 Program

5

6 Rules as Adopted

7

COMMUNITY ALTERNATIVE CARE PROGRAM

8 9505.3500 APPLICABILITY AND EFFECT.

9 Subpart 1. **Applicability.** Parts 9505.3500 to 9505.3700

10 establish standards and procedures applicable to the community

11 alternative care (CAC) program. Individuals who are eligible

12 for and receiving medical assistance services may also be

13 eligible for and receive services under the community

14 alternative care program. CAC pays for approved home and

15 community-based services in lieu of hospital admission or

16 continued hospitalization for individuals who meet the

17 requirements of parts 9505.3500 to 9505.3700, Minnesota

18 Statutes, section 256B.49, and the Code of Federal Regulations,

19 title 42, section 441.302(e)(2). Parts 9505.3500 to 9505.3700

20 must be read in conjunction with Minnesota Statutes, chapter

21 256B; parts 9500.1070, subparts 1 and 12 to 15; 9500.1090 to

22 9500.1155; chapter 9505; Title XIX of the Social Security Act;

23 and title 42 of the Code of Federal Regulations; and the

24 requirements of the waiver obtained by the state from the United

25 States Department of Health and Human Services.

26 Parts 9505.3500 to 9505.3700 apply to local agencies

27 administering medical assistance funds and providing case

28 management services; entities and organizations contracting to

29 perform functions under Minnesota Statutes, 256B.49; providers

30 of home and community-based services who are paid or who request

31 payment under parts 9505.3500 to 9505.3700; and CAC applicants

32 and recipients.

33 Subp. 2. **Effect.** References to the waiver and waiver

34 provisions that occur in parts 9505.3500 to 9505.3700 shall

35 continue in effect only as long as the waiver from the United

1 States Department of Health and Human Services is in effect in
2 Minnesota.

3 9505.3510 DEFINITIONS.

4 Subpart 1. **Applicability.** The definitions in this part
5 apply to parts 9505.3500 to 9505.3700.

6 Subp. 2. **Acting case manager.** "Acting case manager" means
7 a person who is a public health nurse, medical social worker,
8 county social worker, or registered nurse who is appointed by
9 the department and performs case management services specified
10 in subpart 6 for an applicant until the applicant's eligibility
11 for CAC services is determined and a case manager is assigned.

12 Subp. 3. **Applicant.** "Applicant" means an individual who
13 has submitted an application to participate in the CAC program
14 rather than reside in a hospital or remain at risk of frequent
15 hospitalization.

16 Subp. 4. **Application.** "Application" means an application
17 to participate in CAC that is completed according to part
18 9505.3540.

19 Subp. 5. **Assessment.** "Assessment" means the process an
20 interdisciplinary team uses to identify an applicant's health
21 service needs according to part 9505.3540 so that the team can
22 determine the appropriateness of home and community-based
23 services in meeting the applicant's needs.

24 Subp. 6. **Case management services.** "Case management
25 services" means services in which a case manager identifies,
26 arranges, authorizes, and coordinates health services including
27 home and community-based services under parts 9505.3500 to
28 9505.3700 for a recipient; monitors the delivery of services;
29 adjusts services to the needs of the recipient; and advocates
30 for the rights of the recipient.

31 Subp. 7. **Case manager.** "Case manager" means a social
32 worker, registered nurse, or public health nurse who is employed
33 by or under contract with the lead agency and who performs case
34 management services.

35 Subp. 8. **Chronically ill individual or individual.**

1 "Chronically ill individual" or "individual" means an individual
2 who needs an extensive array of health services for an
3 undetermined period of time, whose health condition requires
4 frequent monitoring and treatment by a health care professional
5 or by a person supervised by a health care professional, and who
6 would reside in a hospital or require frequent hospitalization
7 if these services were not provided.

8 Subp. 9. **Commissioner.** "Commissioner" means the
9 commissioner of the Department of Human Services or the
10 commissioner's designated representative.

11 Subp. 10. **Community alternative care program or CAC.**
12 "Community alternative care program" or "CAC" means the program
13 specified in the Minnesota Medicaid model waiver approved by the
14 United States Department of Health and Human Services to provide
15 home and community-based services to chronically ill individuals
16 under age 65.

17 Subp. 10a. **Counseling and training services.** "Counseling
18 and training services" means counseling and training approved by
19 the case manager for primary caregivers in issues pertaining to
20 the maintenance of the recipient in the home. Examples of
21 counseling are crisis counseling and family or individual
22 counseling as required for family functioning. An example of
23 training is teaching a family member or other primary caregiver
24 a treatment regimen or how to use medical equipment or other
25 adaptive equipment necessary to avoid institutionalization.

26 Subp. 11. **County of financial responsibility.** "County of
27 financial responsibility" has the meaning given it in Minnesota
28 Statutes, section 256G.02, subdivision 4.

29 Subp. 12. **County of service.** "County of service" means
30 the county that performs or arranges services for recipients
31 under parts 9505.3500 to 9505.3700. County of service may be
32 either the county of financial responsibility or the county in
33 which the recipient resides.

34 Subp. 13. **Department.** "Department" means the Minnesota
35 Department of Human Services.

36 Subp. 14. **Durable medical equipment.** "Durable medical

1 equipment" means a device that can withstand repeated use, is
2 provided to correct or accommodate a physiological disorder or
3 physical condition, and is suitable for use in the recipient's
4 residence.

5 Subp. 15. **Environmental modifications in the home.**

6 "Environmental modifications to the home" means structural
7 changes to a recipient's residence that are prescribed in the
8 recipient's care plan and that are necessary to maintain the
9 recipient in the recipient's home. Examples of environmental
10 modifications are changes in electrical wiring to accommodate
11 equipment, construction of wheelchair ramps, and widening of
12 doors.

13 Subp. 16. **Foster care services.** "Foster care services"
14 means ongoing residential care and supportive services provided
15 to a recipient living in a foster home licensed under parts
16 9545.0010 to 9545.0260; or 9555.5105 to 9555.6265.

17 Subp. 17. **Health care professional.** "Health care
18 professional" means a physician, registered nurse, licensed
19 practical nurse, occupational therapist, physical therapist,
20 respiratory therapist, or a speech-language pathologist.

21 Subp. 18. **Health service.** "Health service" means a
22 medically necessary service that is ordered by a physician,
23 documented in an approved care plan, and provided to a recipient
24 as ordered in the care plan. The term includes home and
25 community-based services and services provided under parts
26 9505.0170 to 9505.0475.

27 Subp. 19. **Home.** "Home" means the recipient's residence as
28 defined in part 9505.0175, subpart 43. "Home" does not include
29 a hospital or long-term care facility.

30 Subp. 20. **Home and community-based services.** "Home and
31 community-based services" means the services listed in items A
32 to L that are available under the waiver to recipients:

- 33 A. case management services under part 9505.3560;
34 B. home health services under part 9505.3570;
35 C. homemaker services under part 9505.3575;
36 D. respite care services under part 9505.3580;

- 1 E. physician services under part 9505.3585;
2 F. family counseling and training under part
3 9505.3600;
4 G. environmental modifications in the home under part
5 9505.3610;
6 H. medical equipment under part 9505.3620;
7 I. medical transportation under part 9505.3622;
8 J. prescribed drugs under part 9505.3624;
9 K. other professional services under part 9505.3626;
10 and
11 L. foster care services under part 9505.3630.

12 Subp. 21. **Home care plan or care plan.** "Home care plan"
13 or "care plan" means the written plan of health services
14 provided to a recipient that are necessary to maintain a
15 recipient in the recipient's home.

16 Subp. 22. **Home health aide.** "Home health aide" means a
17 person who meets the standards for a home health aide in part
18 9505.0290, subpart 3.

19 Subp. 23. **Homemaker.** "Homemaker" means a person who
20 provides homemaker services and is qualified according to part
21 9565.1200, subpart 2.

22 Subp. 24. **Homemaker services.** "Homemaker services" means
23 the activities specified in parts 9565.1100 and 9565.1200 that
24 are prescribed in the recipient's care plan and provided by a
25 homemaker.

26 Subp. 25. **Hospital.** "Hospital" has the meaning given in
27 Minnesota Statutes, section 144.696, subdivision 3.

28 Subp. 26. **Interdisciplinary team or team.**
29 "Interdisciplinary team" or "team" means a team specified in
30 part 9505.3535 that is responsible for developing a home care
31 plan for an applicant or for a recipient.

32 Subp. 27. **Lead agency.** "Lead agency" means the county
33 welfare department or public health agency designated by the
34 local agency to administer CAC.

35 Subp. 28. **Licensed practical nurse.** "Licensed practical
36 nurse" means a person licensed under and providing health

1 services within the scope of Minnesota Statutes, section 148.29.

2 Subp. 29. **Local agency.** "Local agency" means the county
3 or multicounty agency that is authorized under Minnesota
4 Statutes, section 256B.05 to administer the medical assistance
5 program, including the community alternative care program.

6 Subp. 30. **Medical assistance.** "Medical assistance" means
7 the program established under title XIX of the Social Security
8 Act and Minnesota Statutes, chapter 256B.

9 Subp. 31. **Medical social worker.** "Medical social worker"
10 means a graduate of a school of social work accredited by the
11 Council on Social Work Education who has had social work
12 experience in a hospital, outpatient clinic, medical
13 rehabilitation, or medical care program.

14 Subp. 32. **Medically necessary.** "Medically necessary" has
15 the meaning given in part 9505.0175, subpart 25.

16 Subp. 33. **Nondurable medical equipment.** "Nondurable
17 medical equipment" means a supply or piece of equipment that is
18 used to treat a health condition and that cannot be reused.

19 Subp. 34. **Nursing services.** "Nursing services" means
20 services ordered by a physician, specified in the recipient's
21 care plan, and provided by a licensed practical nurse or
22 provided by a registered nurse or provided under the supervision
23 of a registered nurse.

24 Subp. 35. **Nutritionist.** "Nutritionist" means a person who
25 at a minimum has a bachelor's degree in nutrition and foods or a
26 closely related field and is registered as a dietitian with the
27 Commission of Dietetic Registration.

28 Subp. 36. **Occupational therapist.** "Occupational therapist"
29 means a person who is currently registered as an occupational
30 therapist with the American Occupational Therapy Association or
31 who is a graduate of a program in occupational therapy approved
32 by the Council of Medical Education of the American Medical
33 Association in collaboration with the American Occupational
34 Therapy-Association Certification Board and who is acquiring the
35 supervised clinical experience prerequisite to registration by
36 the American Occupational Therapy Association.

1 Subp. 37. **Physical therapist.** "Physical therapist" means
2 a person holding a current Minnesota certificate of registration
3 as a physical therapist.

4 Subp. 38. **Physician.** "Physician" means a person who is
5 licensed to provide health services within the scope of the
6 physician's profession under Minnesota Statutes, chapter 147.

7 Subp. 39. **Prescribed drug.** "Prescribed drug" means a drug
8 as defined in Minnesota Statutes, section 151.01, subdivision 5,
9 ordered authorized by the recipient's physician, and specified
10 in the recipient's care plan.

11 Subp. 40. **Primary caregiver.** "Primary caregiver" means
12 the person designated by the individual as having the main role
13 in providing informal care to the individual. Primary caregiver
14 includes a family member, relative, friend, neighbor, and other
15 person, who agrees to provide routine care and assistance to the
16 recipient without reimbursement for the services and who
17 cooperates with the case manager and other providers in assuring
18 that services specified in the recipient's care plan are
19 provided.

20 Subp. 41. **Provider.** "Provider" means a vendor who has an
21 agreement or contract with the lead agency to provide a home and
22 community-based service as specified in subpart 20.

23 Subp. 42. **Public health nurse.** "Public health nurse"
24 means a registered nurse certified who meets the requirements of
25 Minnesota Statutes, section 148.232, or the voluntary
26 registration requirements established by the Minnesota
27 Department Board of Health-as-a-public-health-nurse Nursing
28 under Minnesota Statutes, section ~~145A.02, subdivision 18~~
29 148.171, paragraph (8).

30 Subp. 43. **Reassessment.** "Reassessment" means the
31 interdisciplinary team's formal redetermination of a recipient's
32 home and community-based service needs under part 9505.3545.

33 Subp. 44. **Recipient.** "Recipient" means an individual
34 determined to be eligible to receive home and community-based
35 services under a care plan that meets the requirements of part
36 9505.3520 and that is approved by the commissioner under part

1 9505.3680.

2 Subp. 45. **Registered nurse.** "Registered nurse" means a
3 person licensed under and providing services within the scope of
4 Minnesota Statutes, section 148.211.

5 Subp. 46. **Representative.** "Representative" means a person
6 appointed by a court as a guardian or conservator under
7 Minnesota Statutes, sections 252A.01 to 252A.21, or 525.539 to
8 525.6198; a parent of a child under age 21 unless the parent's
9 parental rights have been terminated; or a spouse or other
10 person authorized by the applicant or recipient as defined in
11 part 9505.0015, subpart 8.

12 Subp. 47. **Respiratory therapist.** "Respiratory therapist"
13 means a person who is a graduate of a program in respiratory
14 therapy approved by the Council of Medical Education of the
15 American Medical Association in collaboration with the American
16 Respiratory Therapy Association. If the legislature acts to
17 require certification, registration, or licensure of respiratory
18 therapists, "respiratory therapist" means a person certified,
19 registered, or licensed as a respiratory therapist by the state
20 of Minnesota.

21 Subp. 48. **Respite care services.** "Respite care services"
22 means temporary supervision, assistance, and care provided to a
23 recipient as specified in part 9505.3580 to relieve the
24 recipient's primary caregiver, or other informal caregiver.

25 Subp. 49. **Social worker.** "Social worker" means an
26 individual who meets the minimum qualifications of a social
27 worker under the Minnesota Merit System or a county civil
28 service system in Minnesota and who is employed as a social
29 worker by a county.

30 Subp. 50. **Speech therapist or speech-language pathologist.**
31 "Speech therapist" or "speech-language pathologist" means a
32 person holding a current certificate from the American
33 Speech-Language-Hearing Association in evaluation and treatment
34 of speech-language pathologies or who has completed the academic
35 requirements and is acquiring the supervised work experience
36 required for certification.

1 Subp. 51. **Transportation.** "Transportation" means
 2 transportation that is necessary because of the recipient's
 3 health service needs, that is indicated in the recipient's care
 4 plan or is approved by the recipient's case manager, and that is
 5 not eligible for medical assistance payment under parts
 6 9505.0010 to 9505.0475.

7 Subp. 52. **Waiver.** "Waiver" means the document approved by
 8 the United States Department of Health and Human Services that
 9 allows the state to exclude parental or spousal income when
 10 determining an applicant's eligibility for medical assistance
 11 and to extend services under medical assistance as specified in
 12 parts 9505.3500 to 9505.3700. The term includes all amendments
 13 to the waiver, including any amendments after the effective date
 14 of parts 9505.3500 to 9505.3700, as approved by the United
 15 States Department of Health and Human Services.

16 Subp. 53. **Waiver year.** "Waiver year" means April 1 to
 17 March 31.

18 Subp. 54. **Working day.** "Working day" means the hours of a
 19 day, excluding Saturdays, Sundays, and holidays, when a lead
 20 agency is open for business.

21 9505.3520 ELIGIBILITY FOR COMMUNITY ALTERNATIVE CARE SERVICES.

22 An individual is eligible for home and community-based
 23 services through CAC if the conditions in items A to I are met.

24 A. The individual is eligible for medical assistance
 25 as specified in part 9505.3640, subpart 1.

26 B. The individual is under 65 years of age.

27 C. The individual needs a home and community-based
 28 service which cannot be funded by sources other than CAC.

29 D. The individual has designated a primary caregiver
 30 who has been determined by a health care professional in
 31 coordination with the case manager to be capable of providing
 32 specific health services to the individual in the individual's
 33 residence and has expressed a willingness to provide the
 34 specific health services according to the individual's care plan.

35 E. The primary physician has certified that the

1 individual would reside in a hospital or would require frequent
2 hospitalization without home and community-based services.

3 F. The anticipated average monthly cost to the
4 medical assistance program to implement the individual's care
5 plan, determined on a twelve-month basis, must not exceed the
6 cost to medical assistance of providing inpatient hospital
7 services and physician services for the individual.

8 G. An individual who is eligible for inpatient
9 hospital service financial coverage by a third party payer and
10 medical assistance is eligible for CAC services if the
11 anticipated medical assistance payment for the CAC services is
12 within the limit specified in item F. For purposes of this
13 item, "third party payer" refers to Medicare and a person,
14 entity, agency, or government program as defined in part
15 9505.0015, subpart 46.

16 H. The cost to medical assistance of CAC services
17 specified in the individual's care plan falls within the limit
18 specified in the waiver for the aggregate annual cost of CAC
19 services provided under the waiver for the waiver year in which
20 the individual is a recipient.

21 I. The total number of recipients to be served,
22 including the applicant if approved, falls within the limit
23 specified in the waiver.

24 9505.3530 REQUEST FOR CAC SERVICES.

25 Subpart 1. **Who may request service.** An individual or the
26 representative of an individual who believes that the individual
27 meets the criteria of part 9505.3520, items A to I may request
28 participation in CAC according to parts 9505.3500 to 9505.3700.
29 The request must be made to the department.

30 Subp. 2. **Response of department to request for CAC.** When
31 the department receives a request for a determination of
32 eligibility for CAC, the department shall determine which county
33 will be the individual's county of financial responsibility and
34 the estimated date or dates for the start of the individual's
35 home and community-based services. The department shall

1 designate an acting case manager and send the acting case
2 manager the forms necessary to obtain the information required
3 under part 9505.3540. The forms must be sent no later than five
4 working days after receiving the request. If the acting case
5 manager is not employed by the local agency of the applicant's
6 county of service, the department shall notify the local agency
7 about the request to participate in CAC and the designation of
8 an acting case manager.

9 Subp. 3. **Local agency designation of team members.** No
10 later than five working days after receiving the department's
11 notice, the local agency of the applicant's county of service
12 must designate a social worker and public health nurse to serve
13 on the interdisciplinary team required under part 9505.3535.

14 9505.3535 INTERDISCIPLINARY TEAMS; ESTABLISHMENT AND MEMBERSHIP.

15 Subpart 1. **Applicant's interdisciplinary team.** No later
16 than ten working days after being designated as an applicant's
17 acting case manager, the acting case manager must form an
18 interdisciplinary team. The acting case manager shall consult
19 the applicant or, when it is appropriate, the applicant's
20 representative in forming the team. The team must consist of at
21 least the persons specified in items A to K.

22 A. the applicant or, when it is appropriate, the
23 applicant's representative;

24 B. the acting case manager;

25 C. the applicant's physician;

26 D. the applicant's primary nurse;

27 E. in the case of an applicant who is an inpatient, a
28 medical social worker designated by the hospital to assist in
29 discharge planning for the applicant;

30 F. the county social worker designated under part
31 9505.3530, subpart 3;

32 G. the county public health nurse designated under
33 part 9505.3530, subpart 3;

34 H. a representative of Services for Children with
35 Handicaps if the applicant is under 21 years of age;

1 I. when it is appropriate, other persons who are
2 expected to be the applicant's informal caregivers;

3 J. a representative of the local school district if
4 the applicant is under 22 years of age; and

5 K. other health care professionals providing services
6 required by the applicant's medical condition, consistent with
7 part 9505.0190 and Code of Federal Regulations, title 42,
8 section 431.51.

9 Subp. 2. **Interdisciplinary team; reconvened.** The case
10 manager must reconvene the interdisciplinary team established
11 under subpart 1 when a reassessment is required to determine a
12 recipient's continued eligibility for CAC. If possible, the
13 case manager shall assure continuity of service of team
14 members. At a minimum, the reconvened team must include the
15 persons specified in items A to I.

16 A. the recipient or, when it is appropriate, the
17 recipient's representative;

18 B. the case manager;

19 C. the recipient's primary caregiver;

20 D. the recipient's physician;

21 E. the county social worker designated under part
22 9505.3530, subpart 3;

23 F. the county public health nurse designated under
24 part 9505.3530, subpart 3;

25 G. a representative of Services for Children with
26 Handicaps if the recipient is under 21 years of age;

27 H. a representative of the local school district if
28 the recipient is under 22 years of age; and

29 I. other health care professionals providing services
30 required by the recipient's medical condition, consistent with
31 part 9505.0190 and Code of Federal Regulations, title 42,
32 section 431.51.

33 9505.3540 INTERDISCIPLINARY TEAM RESPONSIBILITIES; ASSESSMENT.

34 Subpart 1. **Assessment of applicant's service needs.** The
35 team must assess the home and community-based services that an

1 applicant will need to live in the community. The assessment
2 must be completed on forms provided by the commissioner.

3 Subp. 2. **Assessment of financial resources.** The team must
4 assess an applicant's financial resources to identify third
5 party payers and other financial resources as defined in part
6 9505.0015, subpart 46, using forms provided by the commissioner.

7 Subp. 3. **Assessment of the applicant's home.** The team
8 must assess the home in which the applicant lives or will live
9 to determine if the applicant's health and safety can be assured
10 in the residence. This assessment must be completed on forms
11 provided by the commissioner. The assessment shall include a
12 determination of the need for environmental modifications in the
13 home as specified in part 9505.3610.

14 Subp. 4. **Assessment of person to be primary caregiver.**
15 The team must assess the willingness and ability of the person
16 who is expected to be the CAC applicant's primary caregiver.
17 The team must report its assessment under this subpart on the
18 form provided by the commissioner.

19 Subp. 5. **Authorization to release information.** The team
20 must ask the applicant or the applicant's representative to sign
21 forms that authorize the release of the applicant's medical
22 records to the team for the assessment. A separate form
23 ~~supplied~~ provided by the commissioner must be completed and
24 signed for each authorization of release of information. The
25 period of the authorization must not exceed one year. The
26 following information must be on the form before the applicant's
27 signature or, when it is appropriate, the signature of the
28 applicant's representative:

- 29 A. the applicant's name;
30 B. the date of the authorization;
31 C. the information authorized;
32 D. the person authorized to give the information;
33 E. the person to whom the information is to be given;
34 F. a description of how the information will be used
35 during the assessment to determine the appropriateness of CAC
36 services; and

1 G. the date the authorization expires.

2 Subp. 6. **Rights, appeals, and freedom to choose.** The team
3 must give the applicant or the applicant's representative
4 written information about the applicant's rights under CAC
5 including:

6 A. the right to appeal the assessment;

7 B. the right to choose among qualified providers of
8 home and community-based services, consistent with part
9 9505.0190 and Code of Federal Regulations, title 42, section
10 431.51;

11 C. the right to confidentiality; and

12 D. the right to accept or reject a recommendation of
13 the team to use home and community-based services rather than
14 reside in a hospital.

15 The acting case manager must document compliance with this
16 subpart by signing and submitting to the department forms
17 ~~supplied~~ provided by the commissioner that state the required
18 information was given to the applicant or, when it is
19 appropriate, the applicant's representative.

20 Subp. 7. **Development of a care plan.** The
21 interdisciplinary team shall develop a care plan for the
22 applicant that is based on the information obtained in subparts
23 1 to 5. The plan must meet the requirements of subpart 8. The
24 acting case manager must notify the department and estimate the
25 additional time needed if the time required to complete the care
26 plan and assessments required under this subpart exceeds the
27 time specified in part 9505.0090, subpart 2. The applicant's
28 care plan must be signed by the applicant or, when it is
29 appropriate, the applicant's representative, the applicant's
30 physician, and the acting case manager.

31 Subp. 8. **Contents.** The care plan developed by the
32 interdisciplinary team for an applicant or recipient must
33 contain at least the information specified in items A to D. The
34 plan must be on forms provided by the commissioner. The care
35 plan must include all health services approved by the
36 individual's physician regardless of the funding source or

1 sources available to pay the cost of the health services.

2 A. The recommendation of the team that the applicant
3 be approved for services funded by CAC because the applicant
4 meets the eligibility criteria under part 9505.3520 or, in the
5 case of a recipient, continues to be approved for services
6 funded by CAC because the applicant continues to meet the
7 eligibility criteria under part 9505.3520.

8 B. A description of the health services necessary to
9 maintain the individual in the community, including:

10 (1) home and community-based services needed by
11 the individual;

12 (2) qualified providers of the home and
13 community-based services selected by the applicant or, when it
14 is appropriate, the applicant's representative or, in the case
15 of a recipient, by the recipient or, when it is appropriate, the
16 recipient's representative to meet the needs identified in
17 subitem (1);

18 (3) the informal caregivers who are willing and
19 able to provide services identified in subitem (1);

20 (4) the required frequency of the services;

21 (5) the anticipated date or dates on which the
22 applicant's services must be started;

23 (6) the provisions for back-up services if there
24 is an emergency;

25 (7) the cost of each service;

26 (8) the funding source for each service; and

27 (9) an estimate of the total cost of all health
28 services in the care plan including home and community-based
29 services.

30 C. Documentation that the team allowed the applicant
31 or recipient or, when it is appropriate, the representative of
32 the applicant or recipient to choose among the available
33 qualified providers.

34 D. Documentation that the applicant or recipient or,
35 when it is appropriate, the representative of the applicant or
36 recipient, the acting case manager or case manager, and the

1 physician of the applicant or recipient approve the home care
2 plan.

3 Subp. 9. **Team recommendation.** After completing the
4 assessments required in subparts 1 to 4 and the care plan
5 required in subpart 8, the interdisciplinary team must recommend
6 one of the following:

7 A. that the applicant remain a hospital inpatient;

8 B. that the applicant be admitted to a facility from
9 the applicant's home. For purposes of this item, "facility"
10 means a hospital as defined in part 9505.0175, subpart 16 or a
11 long-term care facility as defined in part 9505.0175, subpart
12 23; or

13 C. that the applicant receive health services
14 including home and community-based services in the community.

15 The team's recommendation must be supported by the
16 assessments conducted under subparts 1 to 4 and the services
17 specified in the applicant's care plan. The applicant's
18 physician, the acting case manager or case manager and the
19 applicant or, when it is appropriate, the applicant's
20 representative must sign the application.

21 Subp. 10. **Transmittal of plan, assessments, and**
22 **recommendations to the commissioner.** The team must submit the
23 following documents to the commissioner for a determination of
24 the applicant's eligibility for CAC services:

25 A. the completed assessments required under subparts
26 1 to 4;

27 B. the documentation required under subpart 6;

28 C. the request for CAC services, signed by the
29 applicant or the applicant's representative;

30 D. the recommendation required under subpart 9; and

31 E. the care plan signed by the physician, case
32 manager, and the applicant or the applicant's representative.

33 9505.3545 REASSESSMENT BY INTERDISCIPLINARY TEAM.

34 Subpart 1. **Reassessment required.** A recipient's need and
35 eligibility for home and community-based services must be

1 reassessed at least once every six months. The reassessment
2 must be carried out by an interdisciplinary team convened by the
3 recipient's case manager as specified in part 9505.3535, subpart
4 2. At a minimum, the reassessment shall include the items
5 specified in part 9505.3540, subparts 1 and 3 to 9. The team
6 must review and modify the recipient's care plan as necessary
7 and appropriate to meet the recipient's needs.

8 Subp. 2. **Responsibility to assure reassessment.** A local
9 agency is responsible to assure that a recipient's reassessment
10 is completed as required under subpart 1. If the reassessment
11 is not completed, the local agency shall be responsible for
12 paying the costs of the services specified in the recipient's
13 care plan and received by the recipient until the reassessment
14 is completed and submitted to the department.

15 9505.3550 RECIPIENT'S TERMINATION FROM CAC.

16 A recipient shall be terminated from eligibility for CAC
17 services when:

18 A. the recipient chooses not to use CAC services;

19 B. the recipient no longer needs CAC services as
20 determined by a reassessment;

21 C. the recipient's condition requires continued
22 hospitalization for an indefinite period as certified by the
23 recipient's physician;

24 D. the recipient who has been hospitalized more than
25 30 consecutive days in a waiver year requires home and
26 community-based services that are not available in the
27 community;

28 E. the recipient is no longer eligible for medical
29 assistance;

30 F. the recipient has third party payer coverage that
31 pays the cost of inpatient hospital services to the extent CAC
32 services are no longer cost-effective; or

33 G. the recipient's condition requires health services
34 having a cost to medical assistance that is greater than the
35 medical assistance cost of inpatient hospital services to the

1 recipient.

2 9505.3560 CASE MANAGEMENT SERVICES.

3 Subpart 1. **Required service.** Case management services
4 must be provided to a recipient. The lead agency shall be
5 responsible for implementing the case management services
6 required under parts 9505.3500 to 9505.3700.

7 Subp. 2. **Designation of case manager.** No later than five
8 working days after receiving the department's notice that an
9 applicant's request for CAC services has been approved, the lead
10 agency must consult with the applicant or the applicant's
11 representative and designate a case manager. The case manager
12 must not have a financial interest in the services provided to
13 the applicant other than the case manager's employment by the
14 lead agency.

15 Subp. 3. **Case manager responsibilities.** The case manager
16 or, when it is appropriate, the acting case manager must:

17 A. convene and coordinate the interdisciplinary team;

18 B. gather information needed to determine an
19 individual's eligibility for CAC under parts 9505.3500 to
20 9505.3700;

21 C. inform applicants, recipients, and their
22 representatives about the rights specified in part 9505.3540,
23 subpart 6 and CAC services;

24 D. complete and submit forms required by the
25 commissioner under parts 9505.3500 to 9505.3700;

26 E. locate resources that are available to provide the
27 services specified in the recipient's care plan;

28 F. coordinate and arrange services specified in the
29 recipient's care plan;

30 G. seek out other home and community-based services
31 that may contribute to the recipient's quality of life while the
32 recipient is residing in the community but that are not
33 reimbursable under medical assistance or CAC. Examples of other
34 services include legal, recreational, educational, vocational,
35 and social services;

1 H. meet with the recipient or the recipient's
2 representative in the recipient's home as necessary to assure
3 the recipient's safety and welfare and assure implementation of
4 the recipient's services as specified in the recipient's care
5 plan;

6 I. revise the care plan if the recipient's needs
7 change between scheduled reassessments and, when it is
8 appropriate, obtain the approval of the recipient's physician;

9 J. monitor costs of services to assure that the cost
10 of the services specified in the care plan does not exceed the
11 approved estimated cost of the care plan;

12 K. investigate whether the costs of the services
13 specified in the applicant's or recipient's care plan can be met
14 by a third party payer other than medical assistance or CAC.
15 The case manager must document the investigation on the
16 applicant's or recipient's care plan;

17 L. reconvene the interdisciplinary team at least
18 every six months as required under part 9505.3545 or more often
19 if necessary because of changes in the recipient's health or
20 social needs;

21 M. participate in the recipient's reassessment as
22 required under part 9505.3545 and submit the reassessment form
23 to the department no later than ten working days after the
24 reassessment is completed;

25 N. submit the care plan and revisions of the care
26 plan to the commissioner for approval;

27 O. send to the department the information needed to
28 carry out responsibilities under 9505.3680, subparts 1 and 2;

29 P. give notice of acceptance or rejection of an
30 application or reduction, denial, or termination of benefits;
31 and

32 Q. request the applicant, recipient, or the
33 representative of the applicant or recipient, and the
34 individual's physician to approve and sign the individual's care
35 plan.

36 The information required in items N, O, and Q must be provided

1 on forms provided by the commissioner. An applicant or
2 recipient is ineligible for CAC services if the applicant or
3 recipient or, when it is appropriate, the applicant's or
4 recipient's representative fails to sign the care plan. The
5 acting case manager of an applicant or the case manager of a
6 recipient must explain to the person whose signature is being
7 requested the consequences of failing to sign.

8 **Subp. 4. Case manager reports about suspected abuse of a**
9 **vulnerable adult.** A case manager who has reason to believe a
10 recipient is or has been subject to abuse or neglect as defined
11 in Minnesota Statutes, section 626.557, subdivision 2, that
12 occurs at the recipient's residence or a place where the
13 recipient receives CAC services shall immediately comply with
14 the reporting and other actions required under Minnesota
15 Statutes, section 626.557. The case manager shall cooperate
16 with the responsible county authority to assure the recipient's
17 health and safety during the investigation. The case manager
18 must request a report from the responsible county authority in
19 order to take the action required in subpart 6.

20 **Subp. 5. Case manager reports about suspected abuse of a**
21 **child.** A case manager who has reason to believe a recipient who
22 is a child is or has been subject to abuse or neglect as defined
23 in Minnesota Statutes, section 626.556 shall immediately report
24 the circumstances of alleged abuse or neglect to the county
25 authority responsible for assuring the protection of children.
26 The case manager shall cooperate with the responsible county
27 authority to assure the recipient's health and safety during the
28 investigation. The case manager must request a report from the
29 responsible county authority in order to take the action
30 required in subpart 6.

31 **Subp. 6. Other actions required of case manager.** When the
32 case manager receives the findings of the investigation carried
33 out under subpart 4 or 5, the case manager shall determine
34 whether a reassessment of the recipient according to part
35 9505.3545 is needed to amend the recipient's care plan. The
36 case manager shall take other actions as needed to assure the

1 recipient's health and safety, such as (1) arranging for the
2 services of another CAC provider, (2) working out another living
3 arrangement for the recipient or, (3) withdrawing the CAC
4 service or services. The case manager shall forward the amended
5 care plan to the commissioner for approval.

6 9505.3570 HOME HEALTH SERVICES.

7 Home health services established under parts 9505.0170 to
8 9505.0475 are available to a recipient except that the limits
9 placed on the amount, duration, and scope of the services
10 eligible for medical assistance payment shall be as specified in
11 the recipient's plan of care.

12 9505.3575 HOMEMAKER SERVICES.

13 Subpart 1. Eligibility for service. Homemaker services
14 are available under CAC if necessary to enable a recipient to
15 remain in the community.

16 Subp. 2. Homemaker services provider; lead agency or
17 contractor. The lead agency may provide directly or may
18 contract for homemaker services that are specified in the
19 recipient's care plan. If the lead agency directly provides
20 homemaker services, the lead agency must also provide
21 supervision of the homemaker's activities. If the lead agency
22 contracts with a provider for homemaker services, the provider
23 must meet the requirements of Minnesota Statutes, sections
24 144A.43 to 144A.46.

25 Subp. 3. Homemaker service standards. The lead agency
26 shall assure that homemaker services to a recipient are provided
27 by the homemaker according to parts 9565.1000 to 9565.1300 and
28 the recipient's care plan.

29 9505.3580 RESPITE CARE SERVICES.

30 Subpart 1. Eligibility for service. Respite care services
31 are available under CAC if the service is necessary to maintain
32 the recipient during a time when the primary caregiver is unable
33 to care for the recipient. Respite care services to a recipient
34 are limited to 720 hours per waiver year.

1 Subp. 2. **Provider standards.** Respite care may be provided
 2 in an out-of-home setting as specified in item A or in the
 3 recipient's home as specified in item B.

4 A. Out-of-home respite care must be provided in a
 5 facility approved by the lead agency such as a hospital, nursing
 6 home, foster home, or community residential facility. When
 7 out-of-home respite care is provided, the facility must be one
 8 that meets state licensure standards.

9 B. A registered nurse or a public health nurse may
 10 give respite care in the recipient's home. The person providing
 11 respite care services must act in the place of the primary
 12 caregiver and shall be available to the recipient throughout the
 13 absence of the primary caregiver.

14 Subp. 3. **Contract required.** The lead agency shall
 15 contract with each person, facility, agency, or entity that
 16 provides respite care services. If the respite care is provided
 17 in the recipient's home, the contract must require the service
 18 to be provided as specified in subpart 2, item B. Additionally,
 19 the contract must include the authority of the person providing
 20 the respite care to act in the event of an emergency affecting
 21 the recipient or the recipient's home or must include the name
 22 of the person designated by the primary caregiver to act on
 23 behalf of the primary caregiver in the event of such an
 24 emergency. The lead agency shall monitor the contractor's
 25 compliance with the terms of the contract.

26 9505.3585 PHYSICIAN SERVICES.

27 Physician services as specified in part 9505.0345 to a CAC
 28 recipient may include home visits as necessary to maintain the
 29 recipient's safe care in the community.

30 9505.3600 COUNSELING AND TRAINING SERVICES.

31 Subpart 1. **Eligibility to receive counseling and training**
 32 **services.** Counseling and training services are available under
 33 CAC and shall be provided to a recipient, primary caregiver, and
 34 to members of the recipient's family with whom the recipient
 35 lives or who routinely care for the recipient. For purposes of

1 this part, "member of the recipient's family" or "family member"
2 refers to the recipient's parent, spouse, children, friends,
3 relatives, foster family, or relatives-in-law. The term does
4 not include individuals who are employed to care for the
5 recipient.

6 Subp. 2. **Purpose of training.** The training must be for
7 the purpose of increasing the ability of a primary caregiver or
8 a member of the recipient's family to maintain and care for the
9 recipient at home. It shall include the use of equipment and
10 treatment regimens as specified in the recipient's care plan and
11 training updates as may be necessary to safely maintain the
12 recipient at home.

13 Subp. 3. **Purpose of counseling.** Counseling under CAC must
14 be designed to help the recipient, the primary caregiver, and
15 the recipient's family members handle crises related to the
16 recipient's condition, develop coping strategies related to the
17 recipient's daily care, and reduce stress.

18 Subp. 4. **Case manager approval required.** Counseling and
19 training services under CAC must be approved by the case manager
20 and must be specified in the recipient's care plan.

21 Subp. 5. **Eligibility to provide counseling and training.**
22 A person providing counseling and training services to a
23 recipient, a primary caregiver, or a recipient's family member
24 must be the recipient's physician, a registered nurse, a public
25 health nurse, a **county** social worker, or a medical social
26 worker, or other qualified person as specified in the
27 recipient's care plan and approved by the case manager. The
28 person providing training service must determine and must
29 document in the recipient's care plan whether a person being
30 trained as the primary caregiver is competent to provide the
31 services required to maintain the recipient at home.

32 9505.3610 ENVIRONMENTAL MODIFICATIONS IN THE HOME.

33 Subpart 1. **Eligibility for service.** An environmental
34 modification in the home of a recipient is available under CAC
35 if the modification is:

- 1 A. necessary to avoid the recipient's
2 hospitalization;
- 3 B. approved and authorized by the recipient's case
4 manager;
- 5 C. specified in the recipient's care plan; and
- 6 D. not available from another funding source.
- 7 Examples of other funding sources are Services for Children with
8 Handicaps and the Minnesota Housing Finance Agency.

9 **Subp. 2. Provider standards.** An environmental
10 modification to the home must be completed according to all
11 applicable state and city building codes by a provider who has
12 been approved by the case manager. The lead agency shall
13 specify the terms of the service to be provided in a contract or
14 service agreement between the agency and the provider approved
15 by the case manager. The lead agency must assure that the
16 environmental modification in the home, when completed, meets
17 the terms specified in the contract or service agreement between
18 the lead agency and the provider.

19 9505.3620 MEDICAL EQUIPMENT.

20 **Subpart 1. Eligibility for medical equipment and supplies.**
21 Medical equipment and supplies that are generally available to
22 an individual in an institution are available under CAC for home
23 use if:

- 24 A. the medical equipment and supplies are specified
25 in the recipient's plan of care;
- 26 B. CAC is the only funding source available to the
27 recipient in regard to the medical equipment and supplies; and
- 28 C. the medical equipment and supplies meet the
29 requirements of part 9505.0310 in regard to rental, purchase,
30 and safeguarding of recipient care.

31 **Subp. 2. Prior approval required.** Medical equipment and
32 supplies require prior approval of the commissioner if:

- 33 A. they are not in the recipient's care plan approved
34 by the commissioner under part 9505.3550;
- 35 B. they are medically necessary;

1 C. they exceed \$25 in value per month; and

2 D. CAC is the only funding source for the medical
3 equipment and supplies.

4 The case manager must submit to the commissioner an addendum to
5 the recipient's care plan that documents compliance with this
6 subpart. The commissioner shall determine whether the medical
7 equipment and supplies meet the requirements of parts 9505.3500
8 to 9505.3700.

9 Subp. 3. **Exemption from limitation on type of equipment
10 and supplies available.** The limitations on the types of
11 equipment or supplies set in part 9505.0310, subpart 1, item A,
12 and subpart 4, item A do not apply to durable medical equipment
13 and supplies available under CAC.

14 9505.3622 MEDICAL TRANSPORTATION.

15 Transportation of a recipient for medical purposes is
16 available under CAC if the transportation is specified in the
17 recipient's care plan to provide access to a medically necessary
18 service and if the transportation lies outside the scope of the
19 local agency's procedure to assure access as required under part
20 9505.0140, subpart 2.

21 9505.3624 PRESCRIBED DRUGS.

22 Subpart 1. **Eligibility for service.** Prescribed drugs are
23 available under CAC if the drug is prescribed authorized by the
24 recipient's physician, is specified in the recipient's care
25 plan, and would be available under medical assistance to the
26 recipient as an inpatient, as provided by Minnesota Statutes,
27 section 256B.0625, subdivision 13.

28 Subp. 2. **Number of prescribed drugs available to
29 recipient.** The availability of prescribed drugs under CAC is
30 subject to the limitations under part 9505.0340. However, the
31 number of different prescribed drugs that a recipient may fill
32 or refill per month is not limited.

33 9505.3626 OTHER PROFESSIONAL SERVICES; THERAPY.

34 Subpart 1. **Eligibility for other professional services;**

1 therapies available as medical assistance services. A recipient
2 is eligible for a therapy that is available to medical
3 assistance recipients under part 9500.1070. The therapy must be
4 provided by a physical therapist, occupational therapist,
5 speech-language pathologist, or respiratory therapist. The
6 therapy provided to the recipient must comply with the provider
7 standards set in parts 9500.1070 and 9505.3500 to 9505.3700.

8 Subp. 2. **Eligibility for other professional services;**
9 **nutritional therapy.** Nutritional therapy is available under
10 CAC. The therapy must be provided by a nutritionist.

11 Subp. 3. **Service limitations.** The amount, duration, and
12 scope of therapy provided to a recipient by a physical
13 therapist, occupational therapist, speech-language pathologist,
14 respiratory therapist, or nutritionist must be ordered by the
15 recipient's physician and specified in the recipient's care plan.

16 9505.3630 FOSTER CARE.

17 Subpart 1. **Eligibility for payment.** Foster care services
18 to a recipient are available under CAC if the services provide
19 ongoing residential and support services which exceed the scope
20 of the services provided through Title IV-E or the Minnesota
21 Supplemental Aid Program. Payment does not include room and
22 board. For purposes of this part, "Title IV-E" means the
23 federal program established by the Social Security Act that
24 reimburses administrative and training costs incurred in
25 providing services under United States Code, title 42, sections
26 470 to 479 and 670 to 679. "Minnesota Supplemental Aid Program"
27 means the program established in Minnesota Statutes, section
28 256D.37.

29 Subp. 2. **Provider standards.** A provider of foster care
30 services must comply with a standard specified in item A or B.

31 A. A provider of foster care services to a recipient
32 under 18 years of age must be licensed according to parts
33 9545.0010 to 9545.0260.

34 B. A provider of foster care services to a recipient
35 who is at least 18 years of age must be licensed according to

1 parts 9555.5105 to 9555.6265.

2 9505.3635 EXCLUDED SERVICES.

3 The following services in items A to F are not available
4 under CAC:

5 A. room and board except for respite care provided
6 outside of the recipient's residence;

7 B. respite care for a recipient of foster care
8 provided under CAC if the payment agreement with the foster care
9 provider includes the payment amount for the respite care to be
10 purchased by the foster care provider;

11 C. health services for which other funding sources
12 are available;

13 D. a CAC service to an individual who is not a
14 recipient;

15 E. a CAC service that is not specified in the
16 recipient's care plan as approved by the commissioner or, in the
17 case of medical transportation under part 9505.3622, the
18 approval of the recipient's case manager; and

19 F. a CAC service for a purpose other than respite
20 care while a recipient is an inpatient as defined in part
21 9505.0175, subpart 17.

22 9505.3640 LOCAL AGENCY RESPONSIBILITIES.

23 Subpart 1. **Determination of applicant's eligibility for**
24 **medical assistance.** A local agency must determine a CAC
25 applicant's eligibility for medical assistance and must
26 redetermine a recipient's eligibility for medical assistance.
27 The determination and redetermination shall be as specified in
28 parts 9505.0010 to 9505.0150, except that the provisions of part
29 9505.0075 relating to the availability of parental or spousal
30 income and assets shall not apply. Although the local agency
31 making the determination must be the local agency of the
32 applicant's or recipient's county of financial responsibility,
33 the local agency obtaining the information required under parts
34 9505.0010 to 9505.0150 may be the local agency in the county of
35 service.

1 Subp. 2. **Designation of lead agency.** A local agency that
 2 is the county of service for a CAC applicant or recipient must
 3 designate a lead agency to administer the county's community
 4 alternative care program. The designated lead agency may be in
 5 the recipient's county of residence or service if different from
 6 the county of financial responsibility.

7 Subp. 3. **Calculation of parental or spousal contribution.**
 8 ~~The local agency must determine the financial contribution to be~~
 9 ~~made by a recipient's parent or spouse, as appropriate, for~~
 10 ~~services to the recipient.~~ The financial contribution of a
 11 parent or spouse shall be determined according to Minnesota
 12 Statutes, sections 256B.14 and 252.27, and appropriate rules
 13 adopted under those statutes. The refusal or failure of a
 14 recipient's obligated parent or spouse to pay the contribution
 15 does not affect the recipient's eligibility for medical
 16 assistance and CAC.

17 ~~The local agency of the recipient's county of financial~~
 18 ~~responsibility shall refer the refusal or failure to pay to the~~
 19 ~~county attorney for action to enforce payment of the~~
 20 ~~contribution.~~

21 If the department or the local agency finds that the
 22 obligated parent or spouse refused or failed to pay the
 23 determined contribution, a cause of action against the obligated
 24 parent or spouse may be initiated as authorized in Minnesota
 25 Statutes, sections 252.27 and 256B.14.

26 9505.3645 LEAD AGENCY RESPONSIBILITIES.

27 Subpart 1. **Enrollment as CAC provider.** A lead agency must
 28 enroll under part 9505.0195 as a provider of CAC services.

29 Subp. 2. **Compliance with rules and local agency**
 30 **requirements.** A lead agency must comply with the requirements
 31 of parts 9505.3500 to 9505.3700 and the local agency that made
 32 the designation under part 9505.3640, subdivision 2.

33 Subp. 3. **Administrative functions.** A lead agency is
 34 responsible to perform the following functions in regard to CAC
 35 services to a recipient:

1 A. establish agreements and contracts to provide the
2 recipient's CAC services as in part 9505.3650, subpart 2;

3 B. review CAC provider billings for approval for
4 payment according to the provider's contract, purchase
5 agreement, or service agreement with the lead agency;

6 C. furnish billings for CAC services according to the
7 procedures of part 9505.0450;

8 D. ensure that the projected cost to medical
9 assistance for the services specified in the recipient's care
10 plan does not exceed the cost to medical assistance if the
11 recipient resided in a hospital;

12 E. make available to the commissioner records of
13 funds expended for CAC services; and

14 F. maintain and make available to the commissioner
15 records of health services provided to recipients.

16 **Subp. 4. Services to recipient.** A lead agency must assure
17 that necessary safeguards are taken to protect the health and
18 welfare of a recipient. For this purpose, the lead agency must:

19 A. require CAC services to be provided as specified
20 in parts 9505.3500 to 9505.3700, either directly or through a
21 contract or purchase of service agreement as specified in part
22 9505.3650;

23 B. assure a CAC service, other than respite care, is
24 not provided to a recipient while the recipient is an inpatient
25 as defined in part 9505.0175, subpart 17; and

26 C. monitor providers of CAC services using the
27 criteria in part 9505.3650.

28 **9505.3650 PROVIDERS OF CAC SERVICES.**

29 **Subpart 1. Criteria for selecting a CAC provider.** A
30 provider of home and community-based services under CAC must
31 meet the criteria in items A to C.

32 A. The provider must be employed by the county or
33 have agreed as specified in subpart 2 to provide home and
34 community-based services under CAC.

35 B. The provider must meet all licensure requirements

1 and professional standards applicable to the service or services
2 being provided as specified in parts 9505.3500 to 9505.3700.

3 C. The provider must not be a primary caregiver or
4 responsible relative of the recipient to whom the provider is
5 furnishing the home and community-based service.

6 Subp. 2. **Agreement to provide CAC services.** A lead agency
7 may provide a CAC service directly or indirectly. If the lead
8 agency chooses to provide the CAC service indirectly, the agency
9 must have a contract, purchase agreement, or service agreement
10 with the CAC service provider that specified the information in
11 items A to I:

12 A. the beginning and ending dates of the contract or
13 agreement;

14 B. the duties and responsibilities of the provider
15 including compliance with applicable certifications, licensures,
16 standards, and supervision of employees as required under parts
17 9505.3500 to 9505.3700;

18 C. the person or persons to be served as specified in
19 the recipient's care plan;

20 D. an agreement to provide the service according to
21 the amount, frequency, and scope specified in the care plan of
22 the person being served;

23 E. the payment amount to be received for the service
24 and the provider's agreement to accept this amount as payment in
25 full;

26 F. the reports and records to be kept by the provider
27 and given to the lead agency;

28 G. the provider's agreement to comply with the
29 Minnesota Government Data Practices Act;

30 H. the provider's documentation of an individual
31 abuse prevention plan that complies with parts 9555.8000 to
32 9555.8500; and

33 I. the conditions under which the lead agency shall
34 terminate the provider's contract or agreement.

35 9505.3660 CAC PROVIDER RECORDS.

1 The lead agency and a CAC provider under contract with the
2 lead agency must maintain for at least five years complete
3 program and fiscal records and supporting documentation
4 identifying the recipients served, the services provided, and
5 the costs incurred. The records must be identified and
6 maintained separately from other provider records. The lead
7 agency's and the provider's records are subject to the
8 maintenance schedule, audit availability requirements, and other
9 provisions in parts 9505.1750 to 9505.2150.

10 9505.3670 RATES FOR CAC SERVICES.

11 Subpart 1. **Maximum CAC service rate.** Unless otherwise
12 specified by the legislature, the commissioner shall annually
13 set the maximum rate that is available to a county as
14 reimbursement to a provider for a CAC service. The rates for
15 CAC services must be consistent with medical assistance rates
16 for comparable services. Annually on July 1 after the effective
17 date of parts 9505.3500 to 9505.3700, the commissioner shall
18 authorize an increase in the CAC service rates available to a
19 county as reimbursement to a CAC provider up to the percentage
20 change forecast by the Home Health Agency Market Basket. The
21 Home Health Agency Market Basket is published by Data Resources
22 and is subject to quarterly revision. The Home Health Agency
23 Market Basket is incorporated by reference and is available
24 through the Minitex interlibrary loan system.

25 Subp. 2. **Notice to counties.** By June 1 of each year, the
26 commissioner shall notify a lead agency of the statewide maximum
27 rate allowed for payment of providing CAC services under subpart
28 1. Additionally, the commissioner shall notify the counties in
29 writing of the percentage increase allowed under subpart 1.

30 Subp. 3. **County CAC service rate.** A county may set rates
31 for CAC services not to exceed the rates established in subpart
32 1. Under no circumstances is the department responsible for
33 payment of rates higher than those established under subpart 1
34 and any amounts paid in excess of those rates shall be
35 recoverable by the commissioner. County rates are subject to

1 audit by the commissioner.

2 9505.3680 DEPARTMENT RESPONSIBILITIES.

3 Subpart 1. **Review and approval of CAC applications.** The
4 commissioner must review and approve or deny each request for
5 eligibility for the community alternative care program according
6 to the criteria of part 9505.3520. The commissioner must
7 determine whether the applicant is eligible for home and
8 community-based services under CAC. No later than 15 working
9 days after receiving the information required under part
10 9505.3540 to determine the applicant's eligibility for CAC, the
11 commissioner must notify the acting case manager and the lead
12 agency of its determination or of the additional information
13 needed to make the determination.

14 Subp. 2. **Review of care plan and eligibility**
15 **reassessments.** The commissioner must approve or deny care plan
16 and eligibility reassessment recommendations according to the
17 criteria of part 9505.3520. The recipient's preexisting care
18 plan shall remain in effect pending the commissioner's approval
19 or denial of the reassessment recommendation.

20 Subp. 3. **Records.** The department must maintain records
21 related to the community alternative care program for a period
22 of at least five years.

23 Subp. 4. **Monitor program expenses.** The department must
24 monitor CAC expenditures to assure that the expenditures do not
25 exceed the approved waiver limits for the home and
26 community-based services under CAC.

27 9505.3690 BILLING FOR CAC SERVICES.

28 A CAC provider must submit a claim for payment for a CAC
29 service specified in a recipient's care plan in the manner
30 specified by the commissioner. A claim under this part must not
31 exceed the amount specified in the contract, purchase agreement,
32 or service agreement between the CAC provider and the lead
33 agency. The CAC provider must submit the claim for payment
34 according to the billing procedures in part 9505.0450. However,
35 the claim shall not be submitted directly to the department.

1 9505.3700 APPEALS.

2 Subpart 1. **Appealable actions.** An applicant assessed
3 under part 9505.3540 or a recipient reassessed under part
4 9505.3545 may appeal if one of the following actions is taken by
5 the department or the local or lead agency:

6 A. a CAC service is denied;

7 B. eligibility for CAC services is not determined
8 with reasonable promptness; or

9 C. a recipient's CAC services are reduced, suspended,
10 or terminated.

11 Subp. 2. **Actions that are not appealable.** A denial,
12 reduction, suspension, or termination of CAC services is not an
13 appealable action if one of the following conditions applies:

14 A. the cost of the applicant's or recipient's home
15 and community-based care exceeds the cost of hospital care;

16 B. the waiver aggregate average cost would be
17 exceeded;

18 C. there are no openings available in the program; or

19 D. the case manager withdraws the CAC service or
20 services as provided under part 9505.3560, subpart 6.

21 Subp. 3. **Notice of right to appeal.** An applicant assessed
22 under part 9505.3540 or a recipient reassessed under part
23 9505.3545 has the right to appeal an action described in subpart
24 1. At the time a requested service is denied, reduced,
25 suspended, or terminated by the case manager, lead agency, or
26 department, the case manager must review with and provide the
27 individual written notice about the proposed action and about
28 the right to appeal. The notice must state the reasons for an
29 appealable action, and an explanation of the right to appeal and
30 how to appeal. The notice must also state that the recipient's
31 ongoing CAC services will not be reduced, suspended, or
32 terminated if the appeal is filed before the date specified in
33 the notice, unless the recipient requests in writing not to
34 receive CAC services while the appeal is pending.

35 Subp. 4. **Submission of appeals.** An applicant assessed

1 under part 9505.3540 or a recipient reassessed under part
2 9505.3545 who wants to appeal must submit the appeal in writing
3 to the local agency of the county of service or to the
4 department. The appeal must be received by the department no
5 later than 30 days after the recipient is made aware of the
6 action taken in subpart 1 or no later than 90 days after the
7 recipient is made aware of the action taken in subpart 1 if good
8 cause reason for delay can be shown.

9 Subp. 5. **Appeal of action.** An appeal of issues meeting
10 the criteria under subparts 1 and 2 shall be heard and decided
11 according to Minnesota Statutes, section 256.045.

12 Subp. 6. **Continuation of services pending an appeal.** If a
13 recipient appeals a denial, reduction, suspension, or
14 termination of CAC services that the recipient has been
15 receiving on an ongoing basis and that are part of the
16 recipient's care plan approved by the recipient's physician, the
17 lead agency must continue to provide the ongoing CAC services at
18 the level specified in the recipient's care plan until a
19 decision on the appeal is recommended by the department's
20 referee and adopted by the commissioner. Nothing in parts
21 9505.3500 to 9505.3700 shall prohibit the department from
22 seeking reimbursement from the recipient for the costs of
23 providing CAC services pending a decision on an appeal if the
24 order adopted by the commissioner is adverse to the recipient.