

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Medical Care Surcharge on

4 Health Care Providers

5

6 Rules as Adopted

7 9510.2000 PURPOSE AND SCOPE.

8 Subpart 1. Purpose. The purpose of parts 9510.2000 to
9 9510.2050 is to govern the administration of the medical care
10 surcharge under Minnesota Statutes, section 256.9657.

11 Subp. 2. Scope. Parts 9510.2000 to 9510.2050 apply to
12 nursing homes, Minnesota hospitals, and HMOs operating on or
13 after October 1, 1992.

14 9510.2010 DEFINITIONS.

15 Subpart 1. Scope. As used in parts 9510.2000 to
16 9510.2050, the following terms have the meanings given them in
17 this part.

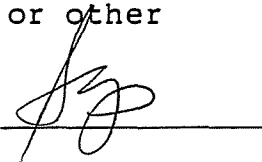
18 Subp. 2. Appeal. "Appeal" means a written request made to
19 the commissioner by a nursing home, Minnesota hospital, or HMO
20 for a contested case hearing under Minnesota Statutes, chapter
21 14, regarding the amount of the medical care surcharge.

22 Subp. 3. Closed or closing. "Closed" or "closing" means
23 the facility has suspended the practice of providing inpatient
24 hospital services, has suspended the practice of providing
25 outpatient services, has suspended operation as a nursing home,
26 or is in the process of suspending services under a plan of
27 closure approved by the department.

28 Subp. 4. Commissioner. "Commissioner" means the
29 commissioner of the Department of Human Services or the
30 commissioner's designated representative.

31 Subp. 5. Department. "Department" means the Minnesota
32 Department of Human Services.

33 Subp. 6. Federal Indian Health Service facility. "Federal
34 Indian Health Service facility" means a facility of the Indian
35 Health Service, including a hospital, nursing facility, or other



1 type of facility that provides services or a type of service
 2 otherwise covered under the state's medical assistance program,
 3 whether operated by the federal Indian Health Service or by an
 4 Indian tribe or tribal organization.

5 Subp. 7. Health maintenance organization or HMO. "Health
 6 maintenance organization" or "HMO" means a health maintenance
 7 organization licensed and operating under Minnesota Statutes,
 8 chapter 62D.

9 Subp. 8. Hospital. "Hospital" has the meaning given in
 10 part 9505.0175, subpart 16, but does not include federal Indian
 11 Health Service facilities and regional treatment centers.

12 Subp. 9. Medical care surcharge. "Medical care surcharge"
 13 means the amount of tax to be paid by a nursing home, Minnesota
 14 hospital, or HMO under Minnesota Statutes, section 256.9657.

15 Subp. 10. Minnesota hospital. "Minnesota hospital" means
 16 a hospital located in Minnesota.

17 Subp. 11. Nursing home. "Nursing home" means a facility
 18 as defined in Minnesota Statutes, section 144A.01, subdivision
 19 5, and licensed under Minnesota Statutes, chapter 144A.

20 Subp. 12. Regional treatment center. "Regional treatment
 21 center" means a "state facility" as defined in Minnesota
 22 Statutes, section 246.50, subdivision 3.

23 Subp. 13. Settle-up. "Settle-up" means to reduce an
 24 amount subsequently owed or to make a payment after resolution
 25 of an appeal under part 9510.2040 between a nursing home,
 26 Minnesota hospital, or HMO and the department in order to settle
 27 the difference between the medical care surcharge paid and the
 28 medical care surcharge owed.

29 9510.2020 MEDICAL CARE SURCHARGE.

30 Subpart 1. Nursing homes. Effective October 1, 1992, and
 31 each July 1 after, ~~non-state-operated-nursing-homes-must-pay~~ an
 32 annual medical care surcharge of \$535 ~~for~~ is levied upon each
 33 nursing home bed licensed by the Minnesota Department of
 34 Health ~~on July 1~~ in nonstate operated nursing homes. Each
 35 nonstate operated nursing home must pay the surcharge for those

1 beds licensed in its nursing home as of July 1 of each year,
 2 except that if the number of licensed beds is reduced after July
 3 1, but prior to August 1, the surcharge shall be based on the
 4 number of remaining licensed beds. A nursing home entitled to a
 5 reduction in the number of beds subject to the surcharge under
 6 this provision must demonstrate to the satisfaction of the
 7 commissioner by August 5 that the number of beds has been
 8 reduced. Payments are due in equal monthly installments on the
 9 15th day of each month beginning November 15, 1992. The monthly
 10 payment must be equal to the annual surcharge divided by 12.
 11 The November 15, 1992, payment shall be based on the number of
 12 licensed nursing home beds in the nursing home on July 1, 1992.
 13 Beginning July 1, 1993, the surcharge will be based on the
 14 number of licensed beds in the nursing home on July 1, 1993, and
 15 will change yearly on July 1 based on the then existing number
 16 of licensed nursing home beds in that nursing home.

17 Subp. 2. Minnesota hospitals. Effective October 1, 1992,
 18 each Minnesota hospitals hospital must pay a an annual medical
 19 care surcharge equal to 1.4 percent of the that hospital's net
 20 patient revenue, excluding that hospital's net Medicare
 21 revenues, as reported to the health care cost information system
 22 for the fiscal year two years before the fiscal year ending June
 23 30. This surcharge shall be paid in monthly installments due
 24 the 15th of the month, beginning October 15, 1992. The monthly
 25 payment must be equal to the annual surcharge divided by 12.

26 For the purpose of this subpart, the definitions in items A
 27 to D apply.

28 A. "Fiscal year" has the meaning given in part
 29 4650.0102, subpart 19.

30 B. "Health care cost information system" means the
 31 reporting system as defined by parts 4650.0102 to 4650.0176.

32 C. "Net Medicare revenue" means any patient revenue
 33 attributable to the Social Security Act, title XVIII.

34 D. "Net patient revenue" has the meaning given
 35 "revenue" in part 4650.0102, subpart 36.

36 Subp. 3. Health maintenance organizations. Health

1 maintenance organizations must pay a an annual medical care
 2 surcharge equal to six-tenths of one percent of the total
 3 premium revenues, ~~excluding premiums attributable to prepaid~~
 4 ~~dental contracts,~~ of that health maintenance organization as
 5 reported to the commissioner of the Department of Health for the
 6 fiscal year two years before the fiscal year ending June 30.
 7 This surcharge shall be paid in monthly installments due the
 8 15th day of the month, beginning October 15, 1992. The monthly
 9 payment must be equal to the annual surcharge divided by 12.

10 For the purpose purposes of this subpart, "total premium
 11 revenues" ~~has the meaning given "premium" in part 4685.1930,~~
 12 ~~subpart 3,~~ mean:

13 A. premium revenue recognized on a prepaid basis from
 14 individuals and groups for provision of a specified range of
 15 health services over a defined period of time, normally one
 16 month; and

17 B. premiums from Medicare wrap-around subscribers for
 18 health benefits which supplement Medicare coverage.

19 If advance payments are made under item A or B to the HMO
 20 for more than one reporting period, the portion of the payment
 21 that has not yet been earned must be treated as a liability.

22 Subp. 4. Installment due date, acceptable postmark. An
 23 installment payment postmarked on or before the 12th of a month
 24 satisfies the due date requirement for the 15th day of the month.

25 Subp. 4: 5. Closed or closing nursing homes and hospitals.
 26 The medical care surcharge as amended in 1992 does not apply to
 27 Minnesota hospitals or nursing homes closed before October 1,
 28 1992.

29 Nursing homes that close or are in the process of closing
 30 after October 1, 1992, are subject to the medical care surcharge
 31 for each month after October 1, 1992, in which the home operates
 32 and maintains licensed beds.

33 Minnesota hospitals that close or are in the process of
 34 closing after October 1, 1992, are subject to the medical care
 35 surcharge until the first month after the hospital is completely
 36 closed.

1 Subp. 5- 6. Nursing homes and hospitals that change
2 ownership or enter into receivership. The medical care
3 surcharge continues for nursing homes and Minnesota hospitals
4 that change ownership or enter into receivership.

5 Subp. 7. HMOs that cease operation. HMOs that cease
6 operation after October 1, 1992, are subject to the medical care
7 surcharge until the first month after the HMO completely ceases
8 operation. The medical care surcharge continues for HMOs that
9 merge as long as any of the certificates of authority of the
10 merging HMOs remain in force. If the certificate of authority
11 for a merging HMO no longer remains in force, the medical care
12 surcharge for that HMO will be discontinued.

13 Subp. 6- 8. Nursing homes, Minnesota hospitals, and HMOs
14 that begin operations after October 1, 1992. Nursing homes,
15 Minnesota hospitals, and HMOs that begin operations after
16 October 1, 1992, are subject to the medical care surcharge under
17 items item A and, B, or C.

18 A. The medical care surcharge will apply to a nursing
19 home that begins operation after October 1, 1992, effective on
20 July 1 immediately after the home becomes licensed. The nursing
21 home shall be billed beginning on August 15 for the period of
22 July 1 through July 31.

23 B. The surcharge for Minnesota hospitals ~~and health~~
24 ~~maintenance-organizations~~ begins the month immediately after the
25 date when data has been reported to the health care cost
26 information system for the fiscal year two years before the year
27 of surcharge.

28 C. The surcharge for health maintenance organizations
29 begins the month immediately after the date when data have been
30 reported to the commissioner of health for the fiscal year two
31 years before the year of surcharge.

32 9510.2030 NOTIFICATION OF SURCHARGE AMOUNT.

33 The commissioner must give written notice to a nursing
34 home, Minnesota hospital, or HMO of the medical care surcharge
35 amount owed at least 30 days before the date each payment is

1 due. Notwithstanding the requirement that the monthly
2 installments under part 9510.2020, subparts 1, 2, and 3, are due
3 on the 15th day of the month, if written notice from the
4 commissioner under this part is not received at least 30 days
5 prior to the 15th, the due date of the monthly installment will
6 be extended to 30 days from the day the notice is actually
7 received by the nursing home, hospital, or HMO.

8 9510.2040 SURCHARGE APPEALS.

9 Subpart 1. **When allowed.** A nursing home, Minnesota
10 hospital, or HMO may appeal the amount of each medical care
11 surcharge payment assessed under Minnesota Statutes, section
12 256.9657.

13 Subp. 2. **Criteria.** To be effective, an appeal must meet
14 the criteria in items A and B.

15 A. The nursing home, Minnesota hospital, or HMO must
16 appeal to the commissioner in writing. The appeal must be
17 received by the commissioner no later than 30 days after the
18 nursing home, Minnesota hospital, or HMO receives notice of the
19 medical care surcharge amount. Unless the nursing home,
20 Minnesota hospital, or HMO can establish a different date of
21 receipt, the commissioner shall determine the date of receipt of
22 the notice of the medical care surcharge amount to be three days
23 after the notice was mailed by the commissioner, excluding
24 Sundays and holidays.

25 B. The appeal must specify:

26 (1) the basis for the dispute;

27 (2) the computation and the amount the appealing
28 party believes to be correct;

29 (3) the name and address of the person or firm
30 with whom contacts may be made regarding the appeal; and

31 (4) a statement under oath indicating the date on
32 which the payment notice was received by the appealing party.

33 Subp. 3. **Resolution.** The commissioner and the appealing
34 party may attempt to resolve the appeal informally. If the
35 dispute is not resolved informally between the commissioner and

1 the party filing the appeal under subpart 2, item A, the appeal
2 will be heard according to the contested case provisions in
3 Minnesota Statutes, chapter 14, and the rules of the Office of
4 Administrative Hearings. Upon agreement of both parties, the
5 dispute may be resolved informally through any modified appeal
6 procedures established by agreement between the commissioner and
7 the chief administrative law judge.

8 Subp. 4. **Surcharge payment during appeal.** The monthly
9 medical care surcharge amounts established by the commissioner
10 before an appeal must be paid by the dates due while an appeal
11 is pending.

12 Subp. 5. **Resolution of appeal.** If an appeal results in a
13 determination that payment is due the appealing party, the
14 commissioner shall settle-up with the appellant after the
15 exhaustion of the appeal process. For purpose of this subpart,
16 "exhaustion of the appeal process" means within 45 days of the
17 date of the final decision of the court of appeals or the
18 Minnesota Supreme Court if such a judicial review is sought. If
19 no judicial review is sought, "exhaustion of the appeal process"
20 means within 45 days of the date of the final decision of the
21 commissioner.

22 Subp. 6. **Monthly appeals.** An appeal must be filed for
23 each month's disputed medical care surcharge amount due. The
24 appeals may be consolidated in a contested case hearing under
25 Minnesota Statutes, chapter 14. The medical care surcharge
26 amount shall not be adjusted for any month for which an appeal
27 was not filed.

28 9510.2050 ENFORCEMENT.

29 According to Minnesota Statutes, section 256.9657,
30 subdivision 7, the commissioner shall impose civil penalties and
31 interest on medical care surcharge payments that are more than
32 30 days overdue.

33 A three percent penalty is assessed the first day past due,
34 and each 30 days after that, up to 24 percent in the aggregate.
35 Interest will be calculated based on the following formula: tax

1 balance multiplied by interest rate multiplied by length of
2 time. The rate of interest is determined according to Minnesota
3 Statutes, section 270.75.

4 The medical care surcharge notice shall include the tax
5 amount and due date, plus any penalty and interest if not paid
6 by the due date.