

1 Department of Human Services

2

3 Adopted Permanent Rules Governing Department Health Care Program
4 Participation Requirements for Vendors and Health Maintenance
5 Organizations

6

7 Rules as Adopted

8 9505.5200 PURPOSE.

9 Parts 9505.5200 to 9505.5240 establish requirements for
10 participation by vendors and health maintenance organizations in
11 the medical assistance program, general assistance medical care
12 program, and MinnesotaCare as a condition of participating in
13 other state health care programs.

14 9505.5210 DEFINITIONS.

15 Subpart 1. **Applicability.** For the purposes of parts
16 9505.5200 to 9505.5240, the terms in this part have the meanings
17 given them.

18 Subp. 2. **Capitation rate.** "Capitation rate" means a
19 method of payment for health care services under which a monthly
20 per person rate is paid on a prospective basis to a health plan.

21 Subp. 3. **Commissioner.** "Commissioner" means the
22 commissioner of the Department of Human Services or the
23 commissioner's designated representative.

24 Subp. 4. **Department.** "Department" means the Department of
25 Human Services.

26 Subp. 5. **Department health care programs.** "Department
27 health care programs" means:

- 28 A. general assistance medical care;
- 29 B. medical assistance; and
- 30 C. MinnesotaCare.

31 Subp. 6. **Fee-for-service.** "Fee-for-service" means a
32 method of payment for health services under which a specific
33 amount is paid for each type of health service provided a
34 recipient.

35 Subp. 7. **General assistance medical care.** "General

1 assistance medical care" has the meaning given in Minnesota
2 Statutes, section 256D.02, subdivision 4a.

3 Subp. 8. **Geographic area.** "Geographic area" means a
4 portion of a county, a county, or multiple counties as
5 designated by the commissioner for purposes of providing
6 department health care programs through a prepaid contract.

7 Subp. 9. **Health maintenance organization or HMO.** "Health
8 maintenance organization" or "HMO" means an organization
9 specified in Minnesota Statutes, section 62D.02, subdivision 4.

10 Subp. 10. **Health plan.** "Health plan" means a health
11 maintenance organization or other organization that contracts
12 with the department to provide health services to recipients
13 under a prepaid contract.

14 Subp. 11. **Health services.** "Health services" means the
15 goods and services eligible for payment under a department
16 health care program.

17 Subp. 12. **Medical assistance.** "Medical assistance" means
18 the program authorized under title XIX of the Social Security
19 Act and Minnesota Statutes, chapter 256B.

20 Subp. 13. **MinnesotaCare.** "MinnesotaCare" means the
21 program authorized under Minnesota Statutes, sections 256.9351
22 to 256.9363.

23 Subp. 14. **Other state health care programs.** "Other state
24 health care programs" means:

25 A. health insurance plans for state employees covered
26 under Minnesota Statutes, section 43A.18;

27 B. the workers' compensation system established under
28 Minnesota Statutes, section 176.135;

29 C. the public employees insurance program authorized
30 under Minnesota Statutes, section 43A.316;

31 D. insurance plans provided through the Minnesota
32 comprehensive health association under Minnesota Statutes,
33 sections 62E.01 to 62E.16; and

34 E. health insurance plans offered to local statutory
35 or home rule charter city, county, and school district employees.

36 Subp. 15. **Prepaid contract.** "Prepaid contract" means a

1 contract between the department and a health plan under which
2 health services are provided recipients for a capitation rate.

3 Subp. 16. **Provider.** "Provider" means a vendor other than
4 a health maintenance organization that has signed an agreement
5 approved by the department for the provision of health services
6 to a recipient.

7 Subp. 17. **Recipient.** "Recipient" means a person who is
8 determined by the state or local agency to be eligible to
9 receive health services under a department health care program.

10 Subp. 18. **Vendor.** "Vendor" means a vendor of medical
11 care, other than a health maintenance organization, as defined
12 in Minnesota Statutes, section 256B.02, subdivision 7.

13 9505.5220 CONDITIONS OF PARTICIPATION; VENDOR OTHER THAN HEALTH
14 MAINTENANCE ORGANIZATION.

15 Subpart 1. **Required participation.** As a condition of
16 participating in the other state health care programs listed in
17 part 9505.5210, subpart 14, a vendor other than a health
18 maintenance organization must:

19 A. participate as a provider in the department health
20 care programs; and

21 B. except as provided in subparts 3 and 4, accept on
22 a continuous basis new patients who are recipients, and use the
23 same acceptance criteria applied to new patients who are not
24 recipients.

25 Subp. 2. **Exclusion from other state health care programs.**
26 A vendor that fails to comply with the requirements of this part
27 is excluded from participating in other state health care
28 programs listed in part 9505.5210, subpart 14, except as
29 provided in items A ~~and B~~ to C.

30 A. In geographic areas where provider participation
31 in department health care programs is limited by department
32 managed care contracts, a vendor that fails to comply is not
33 excluded from participating in insurance plans offered to local
34 government employees.

35 B. A vendor who enrolls as a provider at the request

1 of the department for the sole purpose of ensuring continuity of
2 care for recipients who are temporarily ineligible for the
3 vendor's health plan is not subject to the requirements of this
4 part unless the vendor provides health services on a fee for
5 service basis to patients not covered by department health care
6 programs.

7 C. An independently owned physical therapy agency or
8 occupational therapy agency, other than a Medicare-certified
9 rehabilitation agency is not subject to the requirements of this
10 part if:

11 (1) the agency is owned by at least one physical
12 therapist or occupational therapist who is individually
13 Medicare-certified and enrolled as a provider in the department
14 health care programs;

15 (2) the agency accepts recipients on a continuous
16 basis; and

17 (3) all health services provided recipients are
18 provided by a therapist who is individually Medicare-certified.

19 This item does not require an agency to provide services to
20 recipients that the agency does not provide other clients.

21 **Subp. 3. Limiting acceptance of recipients; 20 percent**
22 **threshold.** A provider may limit acceptance of new patients who
23 are recipients, only as provided in items A to D.

24 **A.** The provider, at least annually, shall determine
25 annual active patient caseload. Annual active patient caseload
26 means:

27 (1) the total number of patient encounters that
28 result in a billing during the provider's most recent fiscal
29 year; or

30 (2) if enrolled as a provider for less than a
31 year, the total number of patient encounters that result in a
32 billing during the period between enrollment and the end of the
33 provider's fiscal year.

34 **B.** A provider may include, in the determination,
35 patient encounters from all service sites enrolled under the
36 provider's number but shall count only one patient encounter per

1 patient per day regardless of the number of service sites
 2 involved in the patient's health care. A provider may count
 3 recipients receiving health services on a fee-for-service basis
 4 and under a prepaid contract.

5 C. If at least 20 percent of the provider's annual
 6 active patient case load are and continue to be recipients, the
 7 provider may refuse to accept new patients who are recipients
 8 for the remainder of the provider's fiscal year.

9 D. The provider shall notify the department in
 10 writing at least ten days before limiting acceptance of new
 11 patients who are recipients. The notice must include the active
 12 patient caseload data upon which the provider relied in
 13 calculating the percentage of patients who are recipients. The
 14 provider shall provide any other information required by the
 15 commissioner to verify compliance with parts 9505.5200 to
 16 9505.5240.

17 Subp. 4. Waiver. A vendor may annually request a waiver
 18 from the participation requirements of this part in writing from
 19 the commissioner. The commissioner shall grant a waiver for up
 20 to one year and shall include the vendor on the list of
 21 participating providers in part 9505.5240 ~~for one year~~ if:

22 A. the vendor is a provider who is not accepting new
 23 patients, regardless of payer source; or

24 B. the vendor is ineligible to enroll as a provider
 25 in the department health care programs because the vendor does
 26 not provide a covered health service.

27 9505.5230 CONDITIONS OF PARTICIPATION; HEALTH MAINTENANCE
 28 ORGANIZATION.

29 Subpart 1. Participation in department health care
 30 programs. As a condition of participating in the other state
 31 health care programs listed in part 9505.5210, subpart 14, a
 32 health maintenance organization must participate in each
 33 department health care program within its approved service area
 34 as provided in items A to C.

35 A. A health maintenance organization must submit a

1 response to a department request for proposals to contract as a
2 health plan if the HMO:

3 (1) is licensed for a service area that includes
4 all or part of the geographic area identified in the request for
5 proposals and does not meet its participation threshold under
6 subpart 3; or

7 (2) is licensed for a service area that includes
8 all or part of the geographic area in the request for proposals
9 and is currently under contract with the department to provide
10 health services under a mandatory health program in the
11 geographic area identified in the request for proposals and will
12 not meet its participation threshold without continuing to
13 participate in that geographic area. A mandatory health program
14 is a health program in a geographic area where recipients must
15 receive health services from a health plan.

16 B. An HMO required to respond under item A must
17 submit a proposal that meets ~~the requirements in~~ the request for
18 proposals requirements authorized in statute and rule for health
19 plan contracts.

20 C. Before issuing a request for proposals in a
21 geographic area, the commissioner shall notify HMOs licensed for
22 a service area within the geographic area whether a response is
23 required.

24 Subp. 2. Exclusion from other state health care programs.
25 A health maintenance organization that fails to comply with the
26 requirements of this part is not eligible to contract to provide
27 health services covered under the other state health care
28 programs listed in part 9505.5210, subpart 14.

29 Subp. 3. Participation threshold. Before issuing a
30 request for proposals for health plan contracts, the
31 commissioner shall determine whether each health maintenance
32 organization licensed for a service area within the geographic
33 area has met its participation threshold.

34 A. An HMO has met its participation threshold if it
35 has enrolled at least its proportion of the market share of
36 recipients, calculated as provided in this item. Assuming the

1 definitions listed below, that calculation is made as described
2 after the definitions.

3 (1) A means the total number of persons enrolled
4 statewide in the specific health maintenance organization;

5 (2) B means the total number of persons enrolled
6 statewide in health maintenance organizations;

7 (3) C means the number of recipients enrolled
8 statewide in the specific health maintenance organization; and

9 (4) D means the total number of recipients
10 enrolled statewide in health maintenance organizations plus the
11 estimated total number of recipients to be enrolled in the
12 geographic area specified in the department's request for a
13 proposal.

14 If C divided by D is a number less than the number obtained
15 by dividing A by B,

16
$$\left[\begin{array}{c} C \\ - \\ D \end{array} \text{ is less than } \begin{array}{c} A \\ - \\ B \end{array} \right]$$

17
18
19
20 the health maintenance organization has not enrolled its market
21 share of recipients.

22 B. The total number of persons enrolled statewide in
23 health maintenance organizations is determined annually using
24 the number in the most recent annual health maintenance
25 organization report issued by the Minnesota Department of
26 Health. The Minnesota Department of Health report entitled
27 "HMOS; Statistical Report on Health Maintenance Organization
28 Operations in Minnesota" is incorporated by reference and is
29 updated annually. It is available at the Minnesota Legislative
30 Reference Library, 600 State Office Building, 100 Constitution
31 Avenue, Saint Paul, Minnesota 55155.

32 C. The number of recipients enrolled in health
33 maintenance organizations is determined using the most recent
34 monthly enrollment report maintained by the Minnesota Department
35 of Human Services. The monthly enrollment report is available
36 from the Department of Human Services, Coordinated Care
37 Division, 444 Lafayette Road, Saint Paul, Minnesota 55155-3854.

38 Subp. 4. **HMO subcontracts with other HMOs.**

1 A. Except as provided in items B and C, if a health
2 maintenance organization subcontracts all or a portion of its
3 provider network to another HMO, only one HMO, as designated by
4 the contracting HMOs, may count the enrolled recipients for
5 purposes of compliance with this part.

6 B. If at least 75 percent of all persons enrolled
7 with a health maintenance organization are recipients and the
8 HMO does not serve enrollees covered by Medicare or commercial
9 insurance, another HMO with which it subcontracts may not count
10 its enrolled recipients for purposes of compliance with this
11 subpart.

12 C. Two or more health maintenance organizations that
13 have entered into a written agreement to jointly contract as a
14 single health plan with the department may request a waiver from
15 item A to proportionately count enrolled recipients for purposes
16 of compliance with this part. The commissioner shall grant a
17 waiver permitting each HMO to count a percentage of recipient
18 enrollees for the term of the health plan contract if
19 proportionate counting has the same effect on recipient access
20 to health services as an allocation under item A.

21 Subp. 5. Licensed health maintenance organization that is
22 a controlling organization. If a corporation consists of more
23 than one health maintenance organization licensed under
24 Minnesota Statutes, chapter 62D, each of the licensed HMOs must
25 comply with this part; except, if one of the corporation's
26 licensed HMOs is a controlling organization as defined under
27 Minnesota Statutes, section 317A.011, subdivision 18, the
28 controlling organization must comply, using the combined market
29 share of its related health maintenance organizations to
30 calculate the proportion of market share.

31 Subp. 6. Other enrollment limitation. If three or more
32 health plans are under contract with the department in a
33 geographic area, each HMO in the geographic area may limit its
34 enrollment of recipients to 55 percent of the total number of
35 recipients enrolled in the geographic area.

36 ~~Subp. 7. Contracting as a health plan. To contract as a~~

1 ~~health plan, a health maintenance organization must meet the~~
 2 ~~specifications in the department's request for proposal. When~~
 3 ~~an HMO contracts as a health plan for the first time in a~~
 4 ~~geographic area, the contract may provide that the HMO will~~
 5 ~~offer recipients a choice of individual health professionals or~~
 6 ~~health care locations that is not identical to the choice~~
 7 ~~offered state employees, corporate purchasers, or Medicare~~
 8 ~~enrollees.~~

9 9505.5240 REPORTS; EXCLUSION FROM PARTICIPATION.

10 Subpart 1. Quarterly reports to state agencies. The
 11 commissioner shall submit quarterly reports to the commissioners
 12 of Employee Relations, Labor and Industry, and Commerce
 13 identifying the providers and health maintenance organizations
 14 in compliance with parts 9505.5200 to 9505.5230. The
 15 commissioner shall submit a master report of participating
 16 providers and HMOs on April 1 of each year and shall submit
 17 subsequent quarterly amendments. The commissioner shall publish
 18 in the State Register notice of the availability of the
 19 reports. The reports must be in a format mutually agreeable to
 20 the affected agencies.

21 Subp. 2. Notice of noncompliance. If the commissioner has
 22 reason to believe a participating provider or health maintenance
 23 organization is not in compliance with parts 9505.5200 to
 24 9505.5240, the commissioner shall notify the provider or HMO in
 25 writing of the alleged noncompliance. The notice must state
 26 that the commissioners listed in subpart 1 will be notified and
 27 the provider or health maintenance organization will be excluded
 28 from participating in the other state health care programs
 29 listed in part 9505.5210, subpart 14, unless evidence of
 30 compliance is provided within 30 days.

31 Subp. 3. Exclusion for noncompliance. The commissioner
 32 shall consider evidence provided in response to a notice of
 33 alleged noncompliance. Within 30 days after receiving evidence
 34 ~~provided in response to a notice of alleged noncompliance,~~ the
 35 commissioner shall notify the provider or health maintenance

1 organization whether compliance has been demonstrated. If no
2 evidence was submitted within 30 days of the notice under
3 subpart 2, or the commissioner determines the provider or HMO is
4 not in compliance, the commissioner shall remove the provider or
5 HMO from the list of participating providers and HMOs in the
6 next subsequent quarterly report ~~a-provider-or-HMO-that-is-not~~
7 ~~in-compliance-with-parts-9505.5200-to-9505.5240.~~

8 Subp. 4. Reinstatement. The commissioner shall reinstate
9 on the list of participating providers and health maintenance
10 organizations in the quarterly report under subpart 1 an
11 excluded provider or HMO that demonstrates compliance with parts
12 9505.5200 to 9505.5240.