

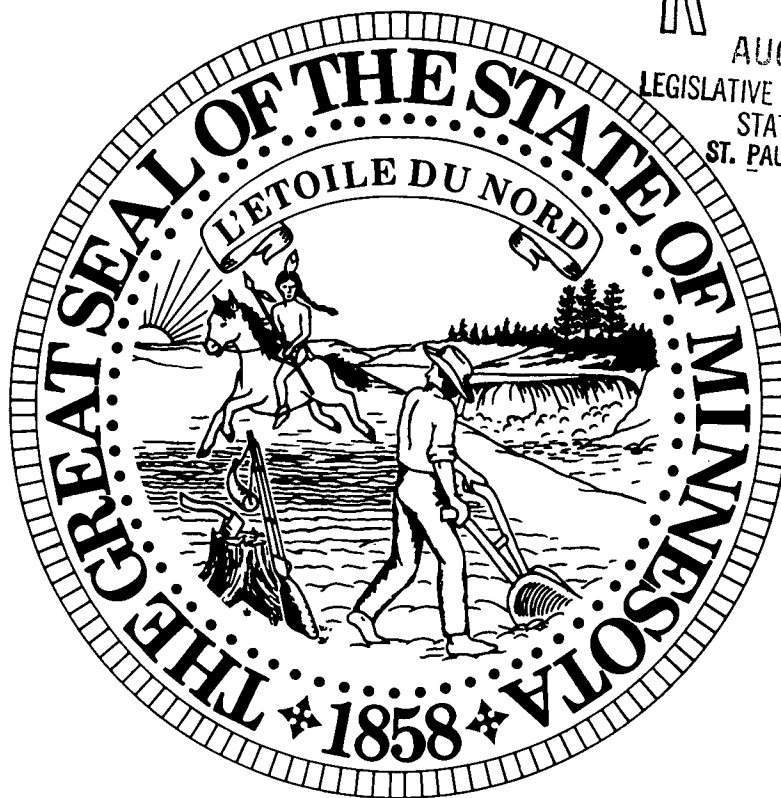
86, August 11

STATE OF MINNESOTA

STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION

4



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STATE REGISTER

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, and supreme court and tax court decisions. Judicial notice shall be taken of material published in the *State Register*.

Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
6	Monday 28 July	Monday 4 August	Monday 11 August
7	Monday 4 August	Monday 11 August	Monday 18 August
8	Monday 11 August	Monday 18 August	Monday 25 August
9	Monday 18 August	Monday 25 August	Monday 1 September

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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Governor: Rudy Perpich

**Director, Minnesota Documents
Division:** Stephen A. Ordahl

Editorial Staff: Paul Hoffman

**Commissioner, Department of
Administration:** Sandra J. Hale

Editor: Robin PanLener

Circulation Manager: Debbie Kobold

Support Staff: Bonnie Karels

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

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Contact: Senate Public Information Office
Room 111 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION** also.

The **PROPOSED RULES** section contains:

- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
- Proposed amendments to rules already in existence in the *Minnesota Rules*.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless requested by an agency.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The **OFFICIAL NOTICES** section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 are included in a supplement published in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The *State Register* publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issues 27-38, inclusive	

MINNESOTA RULES AMENDMENTS AND ADDITIONS

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Permanent Rule Relating to Coordination of Benefits

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and does not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Section 45.023 and 72A.19. Additionally a Statement of Need and Reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Statutes Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rule as Proposed

2742.0400 RULES FOR COORDINATION OF BENEFITS.

Subpart 1. [Unchanged.]

Subp. 2. **Dependent child/parents not separated or divorced.** The word "birthday" in the wording shown in subsection (4)(d)(III)(B)(ii) of part 2742.0300, subpart 4 refers only to month and day in a calendar year, not the year in which the person was born.

A group contract which includes coordination of benefits and which is issued or renewed, or which has an anniversary date on or after the later of [January 1, 1986] or [60] days after the effective date of parts 2742.0100 to 2742.0400 shall include the substance of the provision in subsection (4)(d)(III)(B)(ii) of part 2742.0300, subpart 4. That provision shall become effective on ~~the later of~~ January 1, 1987, ~~or one year and 60 days after the effective date of parts 2742.0100 to 2742.0400.~~ Until that provision becomes effective, the group contract shall, instead, use wording like this:

"(ii) ... Except as stated in (iii), the benefits of a plan which covers a person as a dependent of a male are determined before those of a plan which covers the person as a dependent of a female."

Subp. 3. to 8. [Unchanged.]

Department of Education

Proposed Rules Relating to Education; Pupil-Teacher Ratios

Notice of Hearing

Notice is hereby given that a public hearing concerning the proposed rules will be held at the Minnesota State Capitol, Room 118, on Monday, September 29, 1986, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity

to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to the Administrative Law Judge (ALJ), Jon Lunde, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7645 either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order that the comment period be kept open for a longer period not to exceed 20 calendar days. Material which is received during the comment period will be recorded in the hearing record. Comments received during the comment period shall be available for review at the Office of Administrative Hearings. The agency and interested persons may respond in writing within three business days after that comment period ends to any new information submitted. No additional evidence may be submitted during the three-day period. The rule hearing procedure is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about the rule hearing procedure may be directed to the Administrative Law Judge.

Notice is hereby given that a statement of need and reasonableness is now available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

The agency intends to present only a short summary of the Statement of Need and Reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing.

The proposed rule will establish maximum pupil-teacher ratios at both elementary and secondary levels for teachers of music.

The Board's statutory authority to adopt the proposed rules is provided by Minn. Stat. § 121.11, Subd. 7 and 12.

The Board estimates that there will be no mandatory cost to local public bodies in the State to implement the rules for the two years immediately following their adoption within the meaning of Minn. Stat. § 14.11, Subd. 1. If all local public bodies in the State implement the rule as proposed, it is estimated that the cost will be approximately \$1,920,000 for the two years immediately following their adoption within the meaning of Minn. Stat. § 14.11, Subd. 1. A fiscal note prepared as provided in Minn. Stat. § 3.98, Subd. 2 is available to the public upon request.

A copy of the proposed rules is attached hereto. One free copy of the proposed rule or fiscal note may be obtained by writing to Carla Lane Johnson, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rules, contact Dr. Susan K. Vaughan, 645 Capitol Square, 550 Cedar Street, St. Paul, MN 55101 (612) 296-4075.

Notice: Any person may request notification of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone (612) 296-5615.

Dated: 8 January 1986

Ruth E. Randall, Secretary
State Board of Education

Fiscal Statement

The State Board of Education estimates that there will be no mandatory cost to local school districts in the state, in order to implement the proposed rule for the first two years immediately following its adoption within the meaning of Minnesota Statute Section 14.11, Subdivision 1. However, because costs vary from school to school depending on staff, licensure, and local courses currently being offered, it is difficult to project cost estimates.

There is a very real possibility that many music classes at the elementary level and many performing music groups at the secondary level will be instructed by teachers already employed by schools and licensed in other subject areas. In some districts, where more than one music teacher is employed, staffing assignments may be shifted to create a balance within the district. When this situation occurs, there will be no need to hire additional music staff.

In a telephone survey used to sample the districts that reported ratios in excess of those provided by the proposed rule, it was found that if part-time teachers were employed to meet the rule, an equivalent of ten full-time teachers would need to be hired. Based on an average salary of \$25,000 per year, the cost to local public bodies was determined to be \$1,925,000 for each of the first two years immediately following adoption of the rule if all districts in the state met the pupil-staff ratios established by the rule.

Other options include sharing teachers with other districts, sharing students with other districts, and utilizing emerging technology such as interactive television or computer-assisted interactive videotape. All of these options have start-up costs but varying and underdetermined continuing costs.

In determining the estimate of costs, some of the factors which would lower the estimated costs are:

- The number of districts which can add required courses by reassignment.
- The number of districts which will be able to share students and/or teachers.
- The number of districts which will be able to balance pupil-staff ratios within assigned district staffing levels.
- The number of districts which will elect to provide options through technology.

The Department of Education estimates that the maximum total cost to all school districts will not exceed \$250,000 for each of the first two years immediately following adoption of the rule.

Rules as Proposed

3500.1400 ELEMENTARY SCHOOL STAFF.

Subpart 1. [Unchanged.]

Subp. 2. **Pupil-teacher ratio.** The acceptable maximum pupil-teacher ratio is 30 to 1 in any class in grades K to 6 or K to 8. An acceptable maximum pupil-teacher ratio for music teachers is an average of 240 pupils per day per week in grades K to 6 or K to 8. The superintendent shall ~~make a written report~~ submit to the State Board of Education ~~indicating a written school board policy that~~ indicates the circumstances making an exception to this ratio necessary. The local school board is encouraged to involve community members, teachers, administrators, and parents in the development of the policy.

3500.3700 SECONDARY SCHOOL STAFF.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Maximum number of pupils.** The maximum number of pupils per day for a secondary school teacher is 160 except for teachers of performing music groups and physical education classes. An acceptable class size for instruction in physical education shall not exceed 40 pupils. The average maximum number of pupils per day per week for a secondary teacher of performing music groups is 180. The superintendent shall submit to the State Board of Education a written school board policy that indicates the circumstances making an exception to this ratio necessary in performing music groups. The local school board is encouraged to involve community members, teachers, administrators, and parents in the development of the policy.

EFFECTIVE DATE.

These amendments are effective July 15, 1987.

Housing Finance Agency

Proposed Permanent Rules Relating to Redefining Capital Contribution

Notice to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. Sec. 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless twenty-five or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. Sec. 14.14 *et. seq.* Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. Sec. 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. a lobbyist is defined in Minn. Stat. Sec. 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155 (612) 296-5615.

Dated: 8 August 1986

James J. Solem
Executive Director

Rules as Proposed

4900.0010 DEFINITIONS.

Subpart 1. to 6. [Unchanged.]

Subp. 7. **Capital contribution of the investors.** "Capital contribution of the investors" means the excess of the value of the project at the times and in the manner determined by the agency, whether or not paid in cash, over the then current principal amount of the agency's loan for those developments which:

- A. have adequate reserves as determined by the agency;
- B. all needed maintenance, as determined by the agency, has either been performed or is scheduled to be performed;
- C. during the next 12-month period will require no major repairs or replacements, as determined by the agency, the payment of which would reduce the reserve accounts below an amount determined by the agency;
- D. the operating expenses are paid in full;
- E. have operating account balances equal to or greater than one month's total operating expenses;
- F. have sustained an average occupancy by rent paying tenants of 95 percent or more for the prior 24 months;
- G. have a current waiting list equal to at least 1-1/2 times the annual turnover for the prior 24 months;
- H. the mortgage has not been delinquent during the prior 24 months;
- I. the owner agrees to limit future rent increases to the amount needed to pay for increases in annual operating expenses which includes return on equity and the maintenance of adequate reserves as determined by the agency;
- J. the owner agrees to maintain the development as Section 8 or Section 236 assisted housing for a minimum of 20 years from the effective date of the Housing Assistance Payments Contract or Agreement for Interest Reduction Payments, if one exists; and
- K. the owner agrees to execute any documents that the agency deems necessary and appropriate to effectuate the intent of this definition.

For all other developments, "capital contribution of the investors" means the excess of the total development cost of the project as determined by the agency, whether or not paid in cash, over the original principal amount of the agency's loan.

Subp. 8. to 23. [Unchanged.]

Department of Jobs and Training

Proposed Permanent Rules Relating to Rehabilitation Services for Blind and Visually Handicapped Persons

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 10, State Office Building, 435 Park Street, St. Paul, Minnesota, 55155 on September 20, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon Lunde, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7645, either before the hearing or within five working days after the public hearing ends.

The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record.

Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.01 to 14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 3325.0100 to 3325.0500 set standards for the provision of rehabilitation services to blind and visually handicapped persons. These services are offered by State Services for the Blind through six regional centers throughout the state of Minnesota. For eligible clients these services are either provided directly by Services for the Blind staff or purchased from private vendors.

The individual rule parts are as follows:

Part 3325.0100 identifies the purpose and scope of the rule parts.

Part 3325.0110 defines the technical or uncommon terms used in the rule parts.

Part 3325.0120 outlines the procedures that must be followed in applying to State Services for the Blind (SSB) for rehabilitation services.

Part 3325.0130 sets forth the conditions of eligibility for the vocational rehabilitation program.

Part 3325.0140 (1) requires a preliminary evaluation to determine the eligibility of an applicant for the vocational rehabilitation program; and (2) sets forth the specific assessments involved in this evaluation.

Part 3325.0150 establishes the availability of and conditions governing an extended evaluation which is used to determine eligibility for the vocational rehabilitation program when the preliminary evaluation is inconclusive.

Part 3325.0160 (1) requires a thorough evaluation to determine the contents of the written rehabilitation plan for each client in the vocational rehabilitation program; and (2) sets forth the specific assessments involved in this evaluation.

Part 3325.0170 (1) requires a written rehabilitation plan for each vocational rehabilitation program; and (2) specifies the contents of the plan.

Part 3325.0180 sets forth the scope of services available to clients in the vocational rehabilitation program.

Part 3325.0190 sets forth the conditions under which SSB may terminate services to referrals, applicants or clients in the vocational rehabilitation program.

Part 3325.0200 sets forth the information that SSB must maintain as part of the case record for each client in the vocational rehabilitation program.

Part 3325.0210 sets forth the conditions of eligibility for the independent living program.

Part 3325.0220 (1) requires a preliminary evaluation to determine eligibility for the independent living program; and (2) sets forth the specific assessments involved in this evaluation.

Part 3325.0230 (1) requires a thorough evaluation to determine the contents of the written rehabilitation plan for each client in the independent living program; and (2) sets forth the specific assessments involved in this evaluation.

Part 3325.0240 (1) requires a written rehabilitation plan for each client in the independent living program and (2) specifies the contents of the plan.

Part 3325.0250 sets forth the scope of services available to clients in the independent living program.

Part 3325.0260 sets forth the conditions under which SSB may terminate services to referrals, applicants and clients in the independent living program.

Part 3325.0270 sets forth the information which SSB must maintain as part of the case record for each client in the independent living program.

Part 3325.0280 sets forth the conditions of eligibility for the self-care program.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Part 3325.0290 (1) requires a preliminary evaluation to determine eligibility for the self-care program; and (2) sets forth the specific assessments involved in the evaluation.

Part 3325.0300 (1) requires a thorough evaluation to determine the contents of the written rehabilitation plan for each client in the self-care program; and (2) sets forth the specific assessments involved in the evaluation.

Part 3325.0310 (1) requires a written rehabilitation plan for each client in the self-care program; and (2) specifies the contents of the plan.

Part 3325.0320 sets forth the scope of services available to clients in the self-care program.

Part 3325.0330 sets forth the conditions under which SSB may terminate services to referrals, applicants, and clients in the self-care program.

Part 3325.0340 sets forth the information which SSB must maintain as part of the case record for each client in the self-care program.

Part 3325.0350 sets forth the conditions of eligibility for the child rehabilitation program.

Part 3325.0360 (1) requires a preliminary evaluation to determine eligibility for the child rehabilitation programs; and (2) sets forth the specific assessments involved in the evaluation.

Part 3325.0370 (1) requires a thorough evaluation to determine the contents of the written rehabilitation plan for each client in the child rehabilitation program; and (2) sets forth the specific assessments in the evaluation.

Part 3325.0380 (1) requires a written rehabilitation plan for each client in the child rehabilitation program; and (2) specifies the contents of the plan.

Part 3325.0390 sets forth the scope of services available to clients in the child rehabilitation program.

Part 3325.0400 sets forth the conditions under which SSB may terminate services to referrals, applicants and clients in the child rehabilitation program.

Part 3325.0410 sets forth the information SSB must maintain as part of each the case record for each client in the child rehabilitation program.

Part 3325.0420 sets forth the sources and any special conditions governing the provision of specific services under SSB rehabilitation programs.

Part 3325.0430 requires the use of similar benefits in the provision of rehabilitation services.

Part 3325.0440 sets forth the degree to which clients may be required to help pay for services they receive from SSB.

Part 3325.0450 sets forth the standards and procedures for the recovery by SSB of monetary assistance overpayments.

Part 3325.0460 sets forth the terms and conditions governing the provision and recoupment of equipment under written rehabilitation plans.

Part 3325.0470 sets forth the standards governing rehabilitation facilities from which SSB purchases rehabilitation services for clients.

Part 3325.0480 sets forth the first step in the administrative appeal process for all aggrieved SSB rehabilitation applicants and clients.

Part 3325.0490 sets forth the availability of an evidentiary hearing for persons dissatisfied with the results of the decision under part 3325.0480.

Part 3325.0500 sets forth the right of a client in the vocational rehabilitation program to appeal to the federal rehabilitation agency if dissatisfied with the evidentiary hearing decision under part 3325.0490.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 248.07, subdivision 14a.

The adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following the rules implementation.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Mary Koslowski, Services for the Blind, 1745 University Avenue, St. Paul, Minnesota 55104, 612/642-0777.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Dan Lipschultz (address above), 612/297-4997 or Chuck Hamilton (address above), 612/642-0152.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative

Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings. Print copies may be obtained from the Office of Administrative Hearings at the cost of reproduction. Braille copies or audio recordings may be obtained from the agency.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55105, telephone (612) 296-5148.

Dated: 31 July 1986

Joseph Samargia, Commissioner
Department of Jobs & Training

Rules as Proposed (all new material)

CHAPTER 3325

GENERAL

3325.0100 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of parts 3325.0100 to 3325.0500 is to establish procedures and standards for the provision of rehabilitation services to blind and visually handicapped persons present in Minnesota.

Subp. 2. **Scope.** Parts 3325.0100 to 3325.0500 apply to State Services for the Blind (SSB), all vendors of services under agreement with SSB and all persons applying for or receiving rehabilitation service from SSB. Parts 3325.0100 to 3325.0500 do not require expenditures for a client if funds are not available to SSB from federal and state appropriations for the provision of rehabilitation services under the program in which the client is being served.

Subp. 3. **Exclusion.** All matters pertaining to the operation of the Business Enterprises Program under the Code of Federal Regulations, title 34, part 395 are governed by parts 9570.0100 to 9570.1400 and are not affected by parts 3325.0100 to 3325.0500.

Subp. 4. **Delayed implementation.** Part 3325.0440 shall not be construed to require alteration in the financial obligations of a client on a service initiated prior to the effective date of parts 3325.0100 to 3325.0500 for a period of 12 months following initiation of the service. For purposes of this subpart, a service is initiated when:

- A. the service is identified in the client's written plan; and
- B. the client has signed the plan or otherwise indicated his or her agreement with the terms of the plan.

3325.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 3325.0100 to 3325.0500 have the meanings given to them in this part.

Subp. 2. **Adjustment to blindness services.** "Adjustment to blindness services" means rehabilitation counseling, rehabilitation teaching services, and orientation and mobility services as defined in subparts 51, 62, and 67.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Subp. 3. **Advocacy services.** "Advocacy services" means nonfinancial assistance in identifying and obtaining rehabilitation services that a client may be entitled to from sources other than SSB.

Subp. 4. **Alternative techniques.** "Alternative techniques" means methods which enable persons to perform homemaking and self-care activities independently without sight or with limited sight. These methods include cane travel and braille reading and writing.

Subp. 5. **Appellant.** "Appellant" means an applicant or client who has filed an appeal under part 3325.0480, subpart 1.

Subp. 6. **Applicant.** "Applicant" means a person who submits a written request to SSB for rehabilitation services or a person on whose behalf the person's legal representative submits such a request.

Subp. 7. **Audiological examination and audiologist.** "Audiological examination" means an examination by an audiologist of a person's hearing, including puretone threshold testing (air and bone); speech discrimination testing; impedance audiometry; and other special tests. "Audiologist" means a person with a degree in audiology who measures and evaluates the hearing of people of all ages; provides information on a person's hearing loss; prescribes hearing aids; and plans or refers for necessary rehabilitation programs.

Subp. 8. **Child rehabilitation program.** "Child rehabilitation program" means the state funded SSB program under which blind and visually handicapped children receive rehabilitation services in accordance with individualized written rehabilitation plans to assist children in their growth and development for the purpose of eventual employment and functional independence as adults.

Subp. 9. **Client.** "Client" means a person who has been determined eligible for and is receiving rehabilitation services under the vocational rehabilitation program, independent living program, self-care program, or child rehabilitation program.

Subp. 10. **Client Assistance Program.** "Client Assistance Program" means the federal and state sponsored program through which handicapped persons in the vocational rehabilitation program are provided with advocates to represent and assist them on matters related to rehabilitation.

Subp. 11. **Communication center services.** "Communication center services" means services provided through SSB's communication center. Through its communication center, SSB:

- A. custom transcribes books onto cassette tape or into braille;
- B. researches the availability of textbooks on cassette tape or in braille at sources other than SSB;
- C. lends books which have been previously custom transcribed onto cassette tape or into braille and which are kept in the communication center library;
- D. broadcasts closed circuit radio readings of recent newspapers, books, and magazines and lends the closed circuit radio receivers needed to receive the broadcasts;
- E. lends cassette playback machines and phonographs needed to use cassette tapes or disc recordings obtained from SSB's communication center or the Library of Congress; and
- F. repairs the cassette playback machines, phonographs, and radio receivers it lends.

Subp. 12. **Communication skills training.** "Communication skills training" means instruction aimed at improving a blind or visually handicapped person's ability to communicate with others. This training consists of instruction in one or more of the following: braille; cursive writing; typing; sign language and other forms of manual communication; and the use of telecommunications, sensory, and other technological aids and devices which aid communication.

Subp. 13. **Deaf-blind.** "Deaf-blind" refers to visually handicapped or blind clients who have physiological, chronic hearing losses which prevent them from hearing and understanding most speech with optimum amplification.

Subp. 14. **Department.** "Department" means the Minnesota Department of Jobs and Training.

Subp. 15. **Designated representative.** "Designated representative" means a person designated by an applicant or client to represent the applicant or client in any matter pertaining to a request for or receipt of rehabilitation services.

Subp. 16. **Diagnostic evaluation services.** "Diagnostic evaluation services" means medical examinations, optometric examinations, audiological evaluations, and other rehabilitation services provided to help an applicant or client and a rehabilitation counselor assess the applicant's or client's skills, abilities, and aptitudes in order to determine eligibility, establish a rehabilitation goal, and identify the specific rehabilitation services the client will need to achieve the client's rehabilitation goal.

Subp. 17. **Director.** "Director" means the director of SSB or the director's designated representative.

Subp. 18. **Disability and licensed health profession.** "Disability" means a physical or mental condition diagnosed by the appropriate licensed health professional which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting a person's employment activities, vocational functioning, ability to perform self-care activities, or capacity for growth and

development. "Licensed health professional" means a person licensed under Minnesota Statutes, chapter 148.

Subp. 19. **Employability.** "Employability" means the capacity of a person to obtain or retain gainful employment consistent with the person's capacities and abilities.

Subp. 20. **Extended evaluation.** "Extended evaluation" means the diagnostic process through which an applicant is provided rehabilitation services to help a rehabilitation counselor determine whether the applicant is eligible for rehabilitation services under the vocational rehabilitation program. This process is used when SSB cannot determine from the preliminary evaluation whether the provision of rehabilitation services is likely to enable an applicant to obtain or retain suitable gainful employment.

Subp. 21. **Family or family member.** "Family" or "family member" means persons related by blood, adoption, or marriage or unrelated persons who live in the same household and have a close personal relationship.

Subp. 22. **Family income.** "Family income" means the income of a client and the following persons:

A. the client's spouse; and

B. the client's parent or parents if:

(1) the client is under 18 years of age and living with the client's parents; or

(2) the client was claimed by a parent or parents as a dependent for federal income tax purposes in the most recent calendar year.

Subp. 23. **Gainful employment or gainful occupation.** "Gainful employment" or "gainful occupation" refers to competitive employment; self-employment including employment under the Business Enterprises Program; homemaking; unpaid family work; or sheltered employment at a wage above the range specified for work activity centers under the Code of Federal Regulations, title 29, section 525.2, as amended. The specific categories of gainful employment are defined as follows:

A. "Competitive employment" means work for an employer that hires on the basis of the qualifications of available applicants for which compensation is received in the form of wages, salary, commission, or tips.

B. "Self-employment" means work for profit or fees in one's own business, farm, or profession.

C. "Homemaking" means the performance or direct management of the majority of the household activities necessary to maintain a suitable living environment for oneself or family. These activities may include meal preparation and meal serving for more than oneself, dishwashing, cleaning, laundering, ironing, bedmaking, sewing, shopping, financial management, and child care. A person is a homemaker if the person's principal activity is homemaking.

D. "Unpaid family work" means work other than homemaking performed by a person without pay on a family farm or in a family business owned and operated by one or more members of the person's family.

E. "Sheltered employment" means employment in a workshop or employment by a workshop at a work site physically separate from the workshop. "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in production or service for the primary purpose of providing gainful employment as an interim step in the rehabilitation process for handicapped persons who cannot readily obtain competitive employment.

Subp. 24. **Growth and development.** "Growth and development" means the acquisition by a blind or visually handicapped child of the knowledge, skills, and attitudes necessary to develop the child's abilities at a rate consistent with the child's sighted peers.

Subp. 25. **Improvement in ability to function independently in family or community.** "Improvement in ability to function independently in family or community" refers to a demonstration in functional and behavioral terms of an individual's greater level of independence or maintenance of independence in performing self-care activities.

Subp. 26. **Income.** "Income" means cash payments or benefits, other than gifts or loans, received by or actually available to a client from public or private sources. These payments or benefits include:

A. cash earnings from wage or salaried positions before payroll deductions;

B. cash income receipts from one's own business, farm, or profession after deduction of operating expenses;

C. unearned payments from government assistance programs or other public sources such as unemployment insurance, workers' compensation, veteran's benefits, social security, and government pensions; and

D. unearned payments from private sources such as private pensions, annuities, net rental income, dividends, and interest.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION —** Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Subp. 27. **Independence.** "Independence" refers to a person's maximum potential for self-sufficiency.

Subp. 28. **Independent Living Program.** "Independent Living Program" means the state and federally funded SSB program under which severely handicapped clients receive rehabilitation services in accordance with individualized written rehabilitation plans in order to improve their ability to function independently.

Subp. 29. **Individualized written rehabilitation plan or written plan.** "Individualized written rehabilitation plan" or "written plan" means a written document required for each client identifying, at a minimum, a client's rehabilitation objectives and the services necessary to achieve the objectives.

Subp. 30. **Initial stocks and supplies.** "Initial stocks and supplies" are defined as follows:

A. "Initial stocks" means the inventory of goods for direct resale to consumers by a client entering into a self-employment enterprise.

B. "Supplies" means the expendable items that are necessary for the day-to-day operations of a business and that are consumed on the premises of the business.

Subp. 31. **Institutions of higher learning.** "Institutions of higher learning" means accredited universities, colleges, community colleges, junior colleges, business colleges, trade schools, and vocational-technical schools.

Subp. 32. **Intermediate rehabilitation objectives.** "Intermediate rehabilitation objectives" means the specific functional capabilities, self-assurance, educational achievement, and degree of physical and mental restoration needed by a client to attain a rehabilitation goal.

Subp. 33. **Interpreter services.** "Interpreter services" means manual or tactile interpreting of oral or written communication to deaf-blind clients by an interpreter.

Subp. 34. **Job placement services.** "Job placement services" means services that assist clients in seeking and obtaining gainful employment. These services include one or more of the following:

- A. providing clients with information on employment opportunities and trends;
- B. communicating and negotiating with community resources and employers to increase employment opportunities for blind and visually handicapped persons;
- C. assessing the characteristics and tasks of a client's job choice to determine the skills, knowledge, abilities, and adaptabilities needed to perform the tasks involved in the job;
- D. assisting employers in restructuring job tasks and removing architectural and transportation barriers to accommodate clients;
- E. counseling clients on job seeking skills and assisting clients with the development of job seeking plans;
- F. counseling clients on job retention skills;
- G. assisting clients in preparing resumes and job applications and in developing job interviewing skills;
- H. advising clients and employers on the alternative techniques of blindness as they relate to employment and assisting in the resolution of client-employer conflicts;
- I. assisting employers with affirmative action programs and projects on behalf of clients;
- J. collaborating with organizations involved in employment assistance on behalf of clients;
- K. assisting employers in determining appropriate equipment and systems needs on behalf of clients; and
- L. informing clients and employers of federal and state anti-discrimination laws.

Subp. 35. **Legal blindness or blind.** "Legal blindness" or "blind" means a central visual acuity of 20/200 or less in the better eye with best correction or a defect in the peripheral field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

Subp. 36. **Legal representative.** "Legal representative" means the parent or parents of a person under 18 years of age or a court-appointed guardian or conservator who is authorized by the court to make decisions about services for a person.

Subp. 37. **Low vision aids.** "Low vision aids" means optical and nonoptical instruments and techniques which help blind and visually handicapped persons improve the use of their residual vision.

A. "Optical low vision aids" means lenses or lens systems which enlarge or clarify the retinal image of an object so that it can be better perceived without enlarging the object itself. These aids include monocular and binocular hand-held magnifiers, head and stand-supported magnifiers of both simple and telescopic types, color filter lenses, and electro-optical devices.

B. "Nonoptical low vision aids" means techniques and instruments other than lenses which enlarge or clarify the retinal

image of an object so that it can be better perceived. These aids include wide-lined paper, high intensity lamps, large print, colored paper, wide-tipped pens, and large print telephone dials.

Subp. 38. **Low vision clinician.** "Low vision clinician" means an ophthalmologist or optometrist who provides low vision services.

Subp. 39. **Low vision services.** "Low vision services" means services which help clients use or improve the use of their residual vision in performing specific tasks involved in achieving and maintaining their rehabilitation goals. These services consist of low vision aids and the functional assessments, ophthalmologic or optometric examinations and training necessary for the provision and effective use of low vision aids.

Subp. 40. **Low vision specialist.** "Low vision specialist" means:

A. a rehabilitation counselor who has completed at least 80 hours of training in a low vision training program approved by the director in consultation with the optometric or ophthalmologic consultant; or

B. a person with experience in low vision rehabilitation who has completed at least 80 hours of training in a low vision training program approved by the director in consultation with the optometric or ophthalmologic consultant. The 80 hours of training referred to in this item and in item A must include instruction in:

(1) basic low vision concepts, including the anatomy of the eye, common low vision conditions, and functional and psycho-social implications of low vision; and

(2) low vision assessment and training including the use of a portable low vision kit and provision of visual training with and without optical aids.

Subp. 41. **Maintenance.** "Maintenance" means the financial assistance provided to a client or applicant to help pay basic subsistence costs such as food, shelter, and clothing that result from the provision of other rehabilitation services to the client or applicant.

Subp. 42. **Medical consultant.** "Medical consultant" means a physician under contract with the department to provide consultation to rehabilitation counselors on the medical aspects of disabilities.

Subp. 43. **Mental disorder.** "Mental disorder" means a disorder specified in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition (1980) (DSM III). This manual is incorporated by reference and is not subject to frequent change. It is available for inspection at the Minnesota State Law Library.

Subp. 44. **Note-taking services.** "Note-taking services" means the recording in braille or writing of oral or written communication for later use by clients.

Subp. 45. **Occupational equipment.** "Occupational equipment" means occupational fixtures, vehicles, and machinery normally required by nonhandicapped persons to operate a business or maintain employment.

Subp. 46. **Occupational licenses.** "Occupational licenses" means any license, permit, or other written authority required by a state, city, or other governmental unit as a precondition to entering an occupation or starting a small business.

Subp. 47. **Occupational tools.** "Occupational tools" means instruments normally required by nonhandicapped persons for entry into employment or for efficient job performance.

Subp. 48. **Ophthalmologic consultant.** "Ophthalmologic consultant" means an ophthalmologist under contract with the department to provide consultation to rehabilitation counselors on eye-related medical aspects of disabilities.

Subp. 49. **Ophthalmologist.** "Ophthalmologist" means a physician who specializes in diseases of the eye and who is certified by the American Board of Ophthalmology.

Subp. 50. **Orientation and mobility services.** "Orientation and mobility services" means instruction and nonmechanical aids such as canes which enable a client to travel safely and independently without sight or with impaired sight. These services include the provision of white canes and instruction in cane travel.

Subp. 51. **Orientation and mobility specialist.** "Orientation and mobility specialist" means a person with a degree in orientation and mobility from an accredited college or university.

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PROPOSED RULES

Subp. 52. **Optometric consultant.** "Optometric consultant" means an optometrist under contract with the department to provide advice on aspects of low vision services.

Subp. 53. **Optometrist.** "Optometrist" means a person who is currently licensed to practice optometry under Minnesota Statutes, section 148.57.

Subp. 54. **Physician.** "Physician" means a medical doctor who is currently licensed to practice medicine under Minnesota Statutes, chapter 147.

Subp. 55. **Post-employment services.** "Post-employment services" refers to rehabilitation services provided to help a client maintain employment after the client has been determined to be rehabilitated under part 3325.0190, subpart 2.

Subp. 56. **Psychiatrist.** "Psychiatrist" means a physician who specializes in mental disorders as defined in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition (1980) DSM-III, and who is board certified by the American Board of Psychiatry and Neurology, or board eligible.

Subp. 57. **Psychologist.** "Psychologist" means a person licensed as a psychologist or consulting psychologist under Minnesota Statutes, section 148.91.

Subp. 58. **Reader services.** "Reader services" means the oral reading of written material for a client.

Subp. 59. **Referral.** "Referral" means:

A. a person who has contacted or been placed in contact with SSB to inquire into the possibility of obtaining services but who has not applied for rehabilitation services under part 3325.0120, subpart 2; or

B. the act of directing a blind or visually handicapped person to SSB for assistance.

Subp. 60. **Referral services.** "Referral services" means counseling or research on behalf of a referral, applicant, or client for the purpose of directing the referral, applicant, or client to other agencies and organizations which provide financial assistance, rehabilitation services, or other services needed by the referral, applicant, or client.

Subp. 61. **Rehabilitation counseling.** "Rehabilitation counseling" means the process by which a rehabilitation counselor helps a client:

A. understand abilities and potential and develop self-confidence and an understanding that blindness as a physical condition permits normal life activity;

B. identify and establish a rehabilitation goal and intermediate rehabilitation objectives;

C. complete a program of services leading to the achievement of the intermediate rehabilitation objectives and rehabilitation goal established in the client's individualized written rehabilitation plan; and

D. obtain placement in a gainful occupation consistent with the vocational goal established in the client's written plan.

Subp. 62. **Rehabilitation counselor.** "Rehabilitation counselor" means a person classified by the Minnesota Department of Employee Relations as a rehabilitation counselor and employed by SSB to determine eligibility for and provide and coordinate the provision of rehabilitation services.

Subp. 63. **Rehabilitation facility.** "Rehabilitation facility" means a facility as defined in the Code of Federal Regulations, title 34, section 361.1(c)(2) which is operated for the primary purpose of providing rehabilitation services to blind or other handicapped persons.

Subp. 64. **Rehabilitation goal.** "Rehabilitation goal" means the specific vocation, degree of independence, or level of growth and development identified in a client's written plan as the client's ultimate rehabilitation objective.

Subp. 65. **Rehabilitation services.** "Rehabilitation services" means the services provided to clients by SSB in accordance with written plans in order to improve their employability, ability to perform self-care activities, or capacity for growth and development.

Subp. 66. **Rehabilitation teaching services.** "Rehabilitation teaching services" means instruction in and nonmechanical aids needed to use alternative techniques other than outdoor cane travel.

Subp. 67. **Rehabilitation teacher.** "Rehabilitation teacher" means a person who has a graduate or undergraduate degree in rehabilitation teaching from an accredited college or university.

Subp. 68. **Restoration services.** "Restoration services" means the medical or medically related services provided to correct or substantially modify, within a reasonable time, a physical or mental condition which is stable or slowly progressive. These services consist of the services listed under the definition of "physical and mental restoration services" in the Code of Federal Regulations, title 34, section 361.1(c)(2).

Subp. 69. **Secretary.** "Secretary" means the Secretary of the United States Department of Education.

Subp. 70. **Self-care activities.** "Self-care activities" means the basic tasks of daily living necessary to maintain one's functional independence in the following areas:

- A. personal hygiene and grooming;
- B. eating and meal preparation for oneself;
- C. communicating; and
- D. traveling.

Subp. 71. **Self-care program.** "Self-care program" means the state-funded SSB program through which elderly clients who do not wish to pursue a vocational goal receive rehabilitation services to improve their ability to perform self-care activities.

Subp. 72. **Services to family members.** "Services to family members" refers to one or more of the following services provided to members of a client's family in order to help the client achieve a rehabilitation goal:

- A. one or more of the other rehabilitation services provided by SSB;
- B. assistance in adapting to new or altered methods of home management helpful to the client's rehabilitation;
- C. group counseling to help family members understand the potential and needs of blind and visually handicapped persons;
- D. daycare or foster family care for the children or dependent relatives of a client if necessary to enable the client to implement a written plan; and
- E. assistance in locating living quarters which meet the rehabilitation needs of the client.

Subp. 73. **Severely handicapped.** "Severely handicapped" refers to a severely handicapped individual as defined in the Code of Federal Regulations, title 34, section 361.1(c)(2).

Subp. 74. **Severe limitation in ability to function independently in family or community.** "Severe limitation in ability to function independently in family or community" means an inability to maintain functional independence in two or more of the following areas:

- A. personal hygiene and grooming;
- B. eating and meal preparation for oneself;
- C. communicating; or
- D. traveling.

Subp. 75. **Similar benefits.** "Similar benefits" means services or financial assistance available to clients from one or more sources other than SSB or a client to meet, in whole or part, the cost of rehabilitation services to be provided under a client's written plan. Similar benefits include benefits available to clients from Medicare, Medicaid, the Veteran's Administration, individual and group insurance, community social service agencies, state agencies other than SSB, and public and private educational grants.

Subp. 76. **State Services for the Blind or SSB.** "State Services for the Blind" or "SSB" means the organizational unit of the Department of Jobs and Training responsible for providing and coordinating the provision of rehabilitation services to blind and visually handicapped persons. For purposes of the vocational rehabilitation and independent living programs, "State Services for the Blind" or "SSB" is the state unit as defined in the Code of Federal Regulations, title 34, sections 361.1(c)(2)(1) and 361.6(b).

Subp. 77. **Substantial handicap to employment.** "Substantial handicap to employment" means that a disability (in light of attendant medical, psychological, vocational, educational, and other related factors) prevents a person from obtaining, retaining, or preparing for gainful employment consistent with the person's capacities and abilities.

Subp. 78. **Suitable employment.** "Suitable employment" means employment that is consistent with a person's capacities and abilities.

Subp. 79. **Supervisory staff.** "Supervisory staff" means persons, other than the director employed by SSB, classified as supervisors or managers by the Minnesota Department of Employee Relations (DOER) in the labor agreement between the state of Minnesota and the Middle Management Association for 1985 through June 30, 1987, or in the DOER Managerial Plan for 1985 through June 30, 1987. These publications are incorporated by reference and are not subject to frequent change. These publications are available for inspection at the Minnesota State Law Library.

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Subp. 80. **Supportive services.** "Supportive services" means rehabilitation services which facilitate the provision of other rehabilitation services but which do not, in themselves, provide a person with skills or capabilities that will enable the person to function more independently without continuation of the services for an unlimited period of time. These services include maintenance, transportation services, reader services, note-taking services, and interpreter services.

Subp. 81. **Telecommunications, sensory, and other technological aids and devices.** "Telecommunications, sensory, and other technological aids and devices" means mechanical or electronic equipment and related engineering which improves or substitutes for one or more of a person's senses or which compensates for impaired mobility or motor coordination.

Subp. 82. **Transportation services.** "Transportation services" means assistance to a client in obtaining transportation necessary to implement the client's written plan.

Subp. 83. **Visual disability.** "Visual disability" means:

- A. central visual acuity of 20/60 or less in the better eye with best correction;
- B. the absence of at least one full quadrant of binocular visual field; or
- C. a physical condition or progressive loss of visual ability which will more likely than not result in legal blindness.

Subp. 84. **Visually handicapped.** "Visually handicapped" refers to a person who has a visual disability which does not constitute legal blindness but which constitutes a substantial handicap to employment or limits the person's ability to live independently, perform self-care activities, or grow and develop.

Subp. 85. **Vocational assessment.** "Vocational assessment" means the use and interpretation of objective, standardized tests and inventories to help determine a vocational rehabilitation client's vocational interests, levels of intellectual functioning, personality characteristics, and basic academic skills for the purpose of identifying the client's rehabilitation goal and rehabilitation service needs.

Subp. 86. **Vocational rehabilitation program.** "Vocational rehabilitation program" means the state and federally funded SSB program under which clients receive rehabilitation services in accordance with individualized written plans for the purpose of preparing the clients for gainful employment.

Subp. 87. **Vocational training services.** "Vocational training services" means instruction and supplies provided to a vocational rehabilitation client to help the client acquire the knowledge, skills, attitudes, and educational qualifications necessary to obtain and retain gainful employment consistent with the client's capacities and abilities. These services consist of:

- A. tuition and materials normally required for training in an educational program at an institution of higher learning; and
- B. fees and materials normally required for vocational skills training in settings other than institutions of higher learning such as competitive employment settings and workshops.

Subp. 88. **Work activity.** "Work activity" means activity designed exclusively to provide therapeutic activities for handicapped persons whose physical or mental disabilities are so severe as to make their productive capacities inconsequential. For this purpose, "inconsequential" means that the wage paid to the client is in the range specified for work activity centers in the Code of Federal Regulations, title 29, section 525.2, as amended.

Subp. 89. **Work evaluation.** "Work evaluation" means an assessment of a person's performance in a simulated or real work situation to determine the person's abilities, skills, attitudes toward work, and work behaviors.

3325.0120 APPLICATION PROCEDURE FOR REHABILITATION SERVICES.

Subpart 1. **Referral.** Referral may be from another agency or person or a self-referral and may be oral or written. The referral must provide:

- A. the referred person's name, address, and phone number;
- B. the nature of the referred person's disability if known; and
- C. the date and source of the referral.

Subp. 2. **Written application.** A written application must be submitted by each person requesting rehabilitation services. The application may be by letter or on an application form supplied by SSB. The application must be signed by the applicant or applicant's designated representative and must contain:

- A. the information required under subpart 1;
- B. the dates of the applicant's most recent general physical and ophthalmologic or optometric examinations; and
- C. the date of application.

Subp. 3. **Legal representative.** All signature requirements placed on applicants and clients by parts 3325.0100 to 3325.0500 may

be satisfied by the signature of an applicant's or client's legal representative. All written notices which must be provided to applicants or clients under parts 3325.0100 to 3325.0500 must be provided to the applicant's or client's legal representative unless providing the information would violate provisions of the Minnesota Data Practices Act.

Subp. 4. Designated representative. An applicant or client or legal representative of the same may designate one person to represent the applicant or client in any matter pertaining to the applicant's or client's request for or receipt of rehabilitation services. The applicant or the client shall designate a representative in writing and shall not designate more than one representative at any given time. SSB shall provide an applicant's or client's designated representative with a copy of a written notice only if specifically authorized to do so in writing by the applicant or client.

Subp. 5. Initial interview. A rehabilitation counselor shall personally interview each person referred to SSB for rehabilitation services within 30 days after the referral is received unless circumstances beyond SSB's control make it impossible to interview the referral within 30 days or unless otherwise agreed upon by the referral and the counselor. As part of the interview, the rehabilitation counselor shall begin to:

A. explain the rehabilitation process, including an explanation of the differences between the rehabilitation programs offered by SSB;

B. request the information that the counselor knows, at the time of the interview, is needed to determine eligibility; and

C. inform the referral or applicant of the:

(1) right of confidentiality under subpart 8;

(2) right of appeal under parts 3325.0480 to 3325.0500; and

(3) right to and means of obtaining assistance under the client assistance program.

SSB shall provide each referral with a written summary of the information referred to in items A to C.

Subp. 6. Selection of program. SSB shall assess an applicant's eligibility for the vocational rehabilitation program unless the applicant expressly and unequivocally states that the applicant does not want to pursue a vocational goal. In that case, SSB shall assess the applicant's eligibility for the independent living, self-care, or child rehabilitation program, whichever the applicant and rehabilitation counselor select.

Subp. 7. Residency. No applicant who is present in the state of Minnesota may be denied rehabilitation services on the basis of residency.

Subp. 8. Access to contents of case record. Access to the contents of an applicant's or client's case record or to any other information maintained by SSB which pertains to an applicant or client must be administered by SSB in accordance with the Minnesota Data Practices Act, Minnesota Statutes, chapter 13, and all other applicable laws and regulations.

VOCATIONAL REHABILITATION PROGRAM

3325.0130 CONDITIONS OF ELIGIBILITY.

An applicant is eligible for rehabilitation services under the vocational rehabilitation program only if:

A. the applicant has a visual disability that constitutes or results in a substantial handicap to employment; and

B. there is a reasonable expectation that providing the applicant with rehabilitation services available under part 3325.0180 is likely to enable the applicant to obtain or retain suitable gainful employment.

3325.0140 PRELIMINARY EVALUATION.

Subpart 1. Purpose of evaluation. SSB shall conduct a preliminary evaluation to determine whether an applicant is eligible for rehabilitation services under the vocational rehabilitation program.

Subp. 2. Scope of evaluation. Each eligibility determination must be based on the information specified in items A, B, and C.

A. A written report which documents the results of a medical eye or optometric examination of the applicant and which is signed by a physician or optometrist. The report contains sufficient information for eligibility purposes if in conjunction with the report required under item B, it enables the applicant's rehabilitation counselor or the ophthalmologic consultant who reviews the report to determine whether the applicant is blind or has a visual disability as of the date of application.

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B. A written report which documents the results of a general medical examination of the applicant and which is signed by a physician. The report contains sufficient information for eligibility purposes if it enables the applicant's rehabilitation counselor or the medical consultant who reviews the report to determine whether the applicant has any nonvisual disabilities as of the date of application which could limit the applicant's ability to make improvements in employability.

C. Information regarding the applicant's employment history and educational background and other information needed to determine whether:

(1) the applicant's disability constitutes or results in a substantial handicap to employment; and

(2) there is a reasonable expectation that providing the applicant with rehabilitation services available under part 3325.0180 is likely to enable the applicant to obtain or retain suitable gainful employment.

If the information provided under this subpart indicates that the applicant has or may have a mental disorder, the applicant must be examined by a psychiatrist or psychologist.

Subp. 3. Notice of eligibility. After a rehabilitation counselor has determined that an applicant is eligible for rehabilitation services, the rehabilitation counselor shall inform the applicant in writing of the eligibility determination. The notice must be mailed or personally delivered by SSB within ten working days after certification of eligibility under the Code of Federal Regulations, title 34, section 361.35(a).

Subp. 4. Prior consultation. If SSB expects to find an applicant ineligible for rehabilitation services, SSB shall, before making its final determination, offer the applicant a clear opportunity to discuss the anticipated determination.

Subp. 5. Notice of ineligibility. After a rehabilitation counselor has determined that an applicant is ineligible for rehabilitation services, the rehabilitation counselor shall inform the applicant in writing of the reasons for and effective date of the determination, the applicant's appeal rights under parts 3325.0480 to 3325.0500, and the applicant's right to and means of obtaining assistance under the client assistance program. The notice must be mailed or personally delivered by SSB within ten working days after certification of ineligibility under the Code of Federal Regulations, title 34, section 361.35(c).

Subp. 6. Referral to independent living program. If an applicant is determined ineligible for the vocational rehabilitation program based on a finding that the provision of rehabilitation services is not likely to enable the applicant to obtain or retain gainful employment, SSB shall determine whether the applicant is eligible for the independent living program unless the applicant refuses or is not available to provide any additional information needed to assess the applicant's eligibility for the program.

Subp. 7. Review of ineligibility determination. If an applicant is determined ineligible for the vocational rehabilitation program based on a finding that the provision of rehabilitation services is not likely to enable the applicant to obtain or retain suitable gainful employment, SSB shall review the determination within 12 months after the determination is made. SSB need not conduct the review if the applicant refuses to cooperate with SSB in conducting the review, if the applicant is no longer present in the state, if the applicant's location is unknown, or if the applicant's medical condition is rapidly progressive or terminal.

3325.0150 EXTENDED EVALUATION.

Subpart 1. Purpose and eligibility. SSB shall conduct an extended evaluation to determine whether the provision of rehabilitation services is likely to enable the applicant to obtain or retain suitable gainful employment if:

A. the applicant has a visual disability which constitutes a substantial handicap to employment; and

B. SSB is unable to determine whether there is a reasonable expectation that the provision of rehabilitation services is likely to enable the applicant to obtain or retain suitable gainful employment without an extended evaluation to determine the applicant's vocational rehabilitation potential.

Subp. 2. Individualized written rehabilitation plan. After SSB determines that an extended evaluation is required under subpart 1, an individualized written rehabilitation plan must be developed and signed by the applicant and the applicant's rehabilitation counselor. SSB shall provide the applicant with a copy of the written plan which must contain the information specified in items A to D:

A. the basis on which the applicant was determined eligible for an extended evaluation;

B. the specific services to be provided to the applicant and the anticipated starting date and duration of each service;

C. the terms and conditions for the provision of services under the extended evaluation, including the terms and conditions specified in part 3325.0170, subpart 2, item F; and

D. the information specified in part 3325.0170, subpart 2, items H to J, and the views of the applicant concerning the services the applicant is to receive under the written plan.

Subp. 3. Services available. All the services available to clients under the vocational rehabilitation program must be available to applicants undergoing extended evaluations except vocational training services; post-employment services; job placement services;

occupational licenses; occupational tools; occupational equipment; and initial stocks and supplies.

Subp. 4. **Terms and conditions.** An applicant undergoing an extended evaluation must be provided with only the services necessary to determine whether there is a likelihood that the provision of rehabilitation services will enable the applicant to obtain or retain suitable gainful employment. SSB shall conduct extended evaluations in accordance with the Code of Federal Regulations, title 34, section 361.34.

3325.0160 THOROUGH EVALUATION.

Subpart 1. **Purpose of evaluation.** After a client is determined eligible for rehabilitation services under the vocational rehabilitation program and before formulating the client's written plan, the client and the client's rehabilitation counselor shall conduct a thorough evaluation to identify the rehabilitation goal the client will pursue and the services needed to achieve the goal.

Subp. 2. **Scope of evaluation.** The thorough evaluation of each vocational rehabilitation client must consist of a review by the client and the client's rehabilitation counselor of the following:

A. The client's work history, level of education, relative performance in school, and major areas of educational emphasis. The client shall provide SSB with a copy of the client's most current official school transcripts if requested by the client's rehabilitation counselor.

B. The client's vocational and nonvocational interests.

C. Employment opportunities and trends.

D. The client's beliefs and concerns regarding the client's blindness or visual handicap and any information the client or rehabilitation counselor considers important in assessing the degree of counseling needed by the client to overcome any self-doubts caused by the client's blindness or visual handicap.

E. The client's ability to travel independently and need for orientation and mobility services.

F. The client's communication skills and need for braille instruction and other communication skills training.

G. The client's self-care and homemaking skills and the need for rehabilitation teaching services.

H. The client's ability to use residual vision and the extent to which low vision services could be used by the client in helping the client perform specific vocational, educational, or self-care activities which the client and rehabilitation counselor expect will be involved in implementing the client's written plan.

I. The reports obtained for the preliminary evaluation under part 3325.0140, subpart 2, and the results of any additional medical, optometric, or audiological examinations which the client's rehabilitation counselor, in consultation with the medical or ophthalmologic consultant, considers necessary to determine how and to what extent the client's disabilities can be corrected or minimized by restoration services.

J. The results of a vocational assessment administered and interpreted in a manner which would not permit the client's blindness or visual handicap to result in inaccurate assessment data. A vocational assessment is a required part of the client's thorough evaluation only if one or more of the following conditions exist:

(1) the client has not expressed any vocational interests;

(2) no educational, work history, or work evaluation information is available for review by the client and the client's rehabilitation counselor; or

(3) the client or the client's rehabilitation counselor determines that the information reviewed under items A to I does not fully and accurately indicate the client's vocational interests or the client's chances of success in the vocational areas in which the client has expressed interest.

K. The client's performance in a work evaluation. A work evaluation is a required part of a client's thorough evaluation only if the client or client's rehabilitation counselor determines that the information reviewed under items A to J does not fully and accurately indicate the client's vocational skills and aptitudes.

L. Any other information needed to determine the client's rehabilitation goal and rehabilitation service needs.

3325.0170 INDIVIDUALIZED WRITTEN REHABILITATION PLAN.

Subpart 1. **Preparation of written plan.** After a thorough evaluation is completed, the client and the client's rehabilitation

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counselor shall jointly prepare an individualized written rehabilitation plan for the client. The written plan must be signed by the rehabilitation counselor and the client. The client must be provided with a copy of the written plan.

Subp. 2. Contents of written plan. The written plan must contain the following information:

- A. the basis on which the client's eligibility was determined;
- B. the rehabilitation goal which the rehabilitation counselor and client have agreed to pursue and the intermediate rehabilitation objectives necessary to attain the client's rehabilitation goal;
- C. the specific rehabilitation services which the client must receive in order to achieve the client's intermediate rehabilitation objectives and rehabilitation goal;
- D. the projected beginning date and duration of each rehabilitation service to be provided to the client by SSB and the projected anticipated period of time within which the client is to achieve the rehabilitation goal;
- E. the criteria, procedures, and schedule by which the client's progress toward his or her intermediate rehabilitation objectives and rehabilitation goal will be evaluated;
- F. the terms and conditions for the provision of services to the client, including:
 - (1) the responsibilities of the client in implementing the written plan;
 - (2) the extent to which the client shall pay the cost of services to be provided under the written plan as determined on the basis of the client's financial need under part 3325.0440; and
 - (3) the extent to which the client is eligible for similar benefits under part 3325.0430;
- G. the views of the client concerning the client's rehabilitation goal, intermediate rehabilitation objectives, and the services to be provided under the plan;
- H. a summary of the client's appeal rights under parts 3325.0480 to 3325.0500 and the means by which the client can contact and obtain assistance through the client assistance program;
- I. any plans for the provision of post-employment services;
- J. the identity of and means by which the client can contact organized support and advocacy groups of the blind or deaf-blind in Minnesota; and
- K. a summary of the relevant elements of the individualized education plan for the client if the client is receiving services under the Education for Handicapped Children Act.

Subp. 3. Basis for contents of written plan. The rehabilitation goal and services identified in a client's written plan must be based on and supported by information obtained in the client's preliminary and thorough evaluations and any subsequent information developed during the rehabilitation process in assessing the client's rehabilitation potential and service needs. The client's rehabilitation goal must be within the client's capacities and abilities and attainable given current and expected job market conditions.

Subp. 4. Assessment of progress under written plan. The client and the client's rehabilitation counselor shall assess the client's progress under the written plan as frequently as necessary, but at least once a year according to the schedule established in the written plan. The client must be offered an opportunity to participate in the assessment which must consist of a review of information relevant to the client's progress toward the intermediate rehabilitation objectives and rehabilitation goal identified in the plan. If the client is enrolled in secondary school or an institution of higher learning, the assessment must include a review of the client's most current official school transcript or grade reports. If the client is enrolled in a training program at a rehabilitation facility, the assessment must include a review of written reports on the client's progress submitted to SSB by the rehabilitation facility as required under part 3325.0470.

Subp. 5. Amendment to written plan. A client's written plan must be amended jointly by the client and the client's rehabilitation counselor at any time when necessary to reflect changes in the client's service needs, financial situation, health, intermediate rehabilitation objectives, or rehabilitation goal. Both the client and the client's rehabilitation counselor must re-sign the written plan when both have agreed on an amendment.

Subp. 6. Notice of agency proposed change in written plan. If SSB proposes to change a client's written plan, SSB shall notify the client by certified mail of the proposed change at least ten working days prior to the effective day of the proposed change unless circumstances beyond SSB's control make the ten-day notice impossible. The notice must contain:

- A. the basis for and effective date of the proposed change;
- B. a summary of the client's appeal rights under parts 3325.0480 to 3325.0500; and
- C. a statement that, if the client appeals, the administrative review decision under part 3325.0480, subpart 6 will be made

within 30 days of the effective date of the proposed change and that the client will continue to receive any disputed services during the 30 days only if the client's review request under part 3325.0480, subpart 1 is received by SSB prior to the effective date.

3325.0180 SCOPE OF SERVICES.

SSB provides the following services to vocational rehabilitation clients subject to the conditions specified in part 3325.0420:

- A. adjustment to blindness services which consist of rehabilitation counseling, rehabilitation teaching services, and orientation and mobility services;
- B. advocacy services;
- C. communication center services;
- D. diagnostic evaluation services;
- E. interpreter services;
- F. job placement services;
- G. low vision services;
- H. maintenance;
- I. note-taking services;
- J. occupational licenses, tools, equipment, and initial stocks and supplies;
- K. post-employment services;
- L. reader services;
- M. referral services;
- N. restoration services;
- O. services to family members;
- P. telecommunications, sensory, and other technological aids and devices;
- Q. transportation services;
- R. vocational training services; and
- S. other goods and services related to employment or vocational training.

3325.0190 TERMINATION OF SERVICES.

Subpart 1. **Conditions for refusing services to referrals, applicants, and unrehabilitated clients.** SSB may refuse to provide or terminate the provision of services to a referral, applicant, or unrehabilitated vocational rehabilitation client only if the referral, applicant, or client:

- A. does not satisfy the eligibility conditions of the program identified in part 3325.0130; or
- B. has left the state or been impossible to contact after reasonable efforts by SSB to do so; or
- C. has died; or
- D. has been institutionalized and will, as a result, be unavailable to receive needed services or evaluation from SSB; or
- E. has refused to comply with any of the requirements of parts 3325.0120 to 3325.0470 or with any terms or conditions in the client's written plan; or
- F. has refused to accept or use the rehabilitation services necessary to rehabilitate the client. Before terminating or refusing to provide services based on this condition, the client's rehabilitation counselor shall explain to the client the purpose of the program and the services to be provided and shall encourage the client's participation.

Subp. 2. **Conditions for terminating the provision of services to rehabilitated clients.** SSB shall terminate services being provided to a vocational rehabilitation client due to rehabilitation of the client only if the client has:

- A. achieved the rehabilitation goal identified in the client's written plan;

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B. received rehabilitation services in accordance with the client's written plan consisting, at a minimum, of rehabilitation counseling and an evaluation of the client's vocational rehabilitation potential; and

C. obtained and retained suitable gainful employment for a period of not less than 60 days.

Subp. 3. **Consultation prior to termination.** If SSB expects to terminate services a client is receiving under a written plan because the client no longer satisfies the eligibility conditions identified in part 3325.0130, SSB shall, before termination, offer the client a clear opportunity to discuss the anticipated termination in accordance with the Code of Federal Regulations, title 34, section 361.40(d)(1).

Subp. 4. **Notice of termination and amendment to written plan.** If a client's services are to be terminated for reasons other than successful rehabilitation under subpart 2, SSB shall notify the client of the proposed termination in accordance with part 3325.0170, subpart 6. When the services are terminated, SSB shall amend the client's written plan to reflect the termination. The amendment must contain a summary or description of the information or circumstances upon which the termination decision was based. If the termination decision was based on the client's refusal to accept or use necessary services provided by SSB, the amendment must include a description of the efforts made by SSB to encourage the client's participation in the rehabilitation process.

3325.0200 CASE RECORD.

SSB shall maintain for each applicant and client a case record that contains the information required under the Code of Federal Regulations, title 34, section 361.39.

INDEPENDENT LIVING PROGRAM

3325.0210 CONDITIONS OF ELIGIBILITY.

An applicant is eligible for rehabilitation services under the independent living program only if:

A. the applicant has a visual disability that constitutes or is accompanied by a severe disability;

B. the applicant's disability results in a severe limitation in ability to function independently in family or community; and

C. there is a reasonable expectation that providing the applicant with rehabilitation services available under part 3325.0250 is likely to significantly assist the applicant in improving the applicant's ability to function independently in family or community.

3325.0220 PRELIMINARY EVALUATION.

Subpart 1. **Purpose of evaluation.** SSB shall conduct a preliminary evaluation to determine whether an applicant is eligible for rehabilitation services under the independent living program.

Subp. 2. **Scope of evaluation.** Each eligibility determination must be based on the information specified in items A, B, and C.

A. A written report which documents the results of a medical eye or optometric examination of the applicant and which is signed by a physician or optometrist. The report contains sufficient information for eligibility purposes if, in conjunction with the report required under item B, it enables the applicant's rehabilitation counselor or the ophthalmologic consultant who reviews the report to determine whether the applicant is blind or has a visual disability as of the date of application.

B. A written report which documents the results of a general medical examination of the applicant and which is signed by a physician. The report contains sufficient information for eligibility purposes if it enables the applicant's rehabilitation counselor or the medical consultant who reviews the report to determine whether the applicant has any nonvisual disabilities as of the date of application which could limit the applicant's ability to make improvements in independent functioning.

C. Information regarding the applicant's employment history and educational background and other information needed to determine whether:

(1) the applicant's ability to function independently in family or community is severely limited by disabilities; and

(2) there is a reasonable expectation that providing the applicant with rehabilitation services available under part 3325.0250 is likely to significantly assist the applicant in improving the applicant's ability to function independently in family or community.

Subp. 3. **Notice of eligibility.** After a rehabilitation counselor has determined that an applicant is eligible for rehabilitation services, the rehabilitation counselor shall inform the applicant in writing of the eligibility determination. The notice must be mailed or personally delivered by SSB within ten working days after certification of eligibility under the Code of Federal Regulations, title 34, section 365.33(a).

Subp. 4. **Prior consultation.** If SSB expects to find an applicant ineligible for rehabilitation services, SSB shall, before making its final determination, offer the applicant a clear opportunity to discuss the anticipated determination.

Subp. 5. **Notice of ineligibility.** After a rehabilitation counselor has determined that an applicant is ineligible for rehabilitation services, the rehabilitation counselor shall inform the applicant in writing of the reasons for the determination, the applicant's appeal

rights under parts 3325.0480 to 3325.0500, and the applicant's right to and means of obtaining assistance under the client assistance program. The notice must be mailed or personally delivered by SSB within ten working days after certification of ineligibility under the Code of Federal Regulations, title 34, section 365.33(b).

Subp. 6. **Review of ineligibility determination.** If a determination of ineligibility is based on a finding that it is not likely the provision of rehabilitation services will significantly assist the applicant in improving the applicant's ability to function independently in family or community, SSB shall review the determination within 12 months after the determination is made. SSB need not conduct the review if the applicant refuses to cooperate with SSB in conducting the review, if the applicant is no longer present in the state, if the applicant's location is unknown, or if the applicant's medical condition is rapidly progressive or terminal.

3325.0230 THOROUGH EVALUATION.

Subpart 1. **Purpose of evaluation.** After a client is determined eligible for rehabilitation services under the independent living program and before formulating the client's written plan, the client and the client's rehabilitation counselor shall conduct a thorough evaluation to identify the rehabilitation goal the client will pursue and the services needed to achieve the goal.

Subp. 2. **Scope of evaluation.** The thorough evaluation of each independent living client must consist of a review by the client and the client's rehabilitation counselor of the following:

- A. The client's work history, level of education, relative performance in school, and major areas of educational emphasis.
- B. The client's nonvocational interests.
- C. The client's beliefs and concerns regarding the client's blindness or visual handicap and any information the client or rehabilitation counselor considers important in assessing the degree of counseling needed by the client to overcome any self-doubts caused by the client's blindness or visual handicap.
- D. The client's ability to travel independently and need for orientation and mobility services.
- E. The client's communication skills and need for braille instruction and other communication skills training.
- F. The client's self-care and homemaking skills and the need for rehabilitation teaching services.
- G. The client's ability to use residual vision and the extent to which low vision services could be used by the client in helping the client perform specific educational or self-care activities which the client and rehabilitation counselor expect will be involved in implementing the client's written plan.
- H. The reports obtained for the preliminary evaluation under part 3325.0220, subpart 2 and the results of any additional medical, optometric or audiological examinations which the client's rehabilitation counselor, in consultation with the medical or ophthalmologic consultant, considers necessary to determine how and to what extent the client's visual disability can be corrected or minimized by restoration services.
- I. Any other information needed to determine the client's rehabilitation goal and rehabilitation service needs.

3325.0240 INDIVIDUALIZED WRITTEN REHABILITATION PLAN.

Subpart 1. **Preparation of written plan.** After a thorough evaluation is completed, the client and the client's rehabilitation counselor shall jointly prepare an individualized written rehabilitation plan for the client. The written plan must be signed by the rehabilitation counselor and the client. The client must be provided with a copy of the written plan.

Subp. 2. **Contents of written plan.** The written plan must contain the following information:

- A. The rehabilitation goal which the rehabilitation counselor and client have agreed to pursue and the intermediate rehabilitation objectives necessary to attain the client's rehabilitation goal.
- B. The specific rehabilitation services which the client must receive in order to achieve the client's intermediate rehabilitation objectives and rehabilitation goal.
- C. The projected duration of each rehabilitation service to be provided to the client and the projected period of time within which the client is anticipated to achieve the rehabilitation goal.
- D. The views of the client concerning the client's rehabilitation goal, intermediate rehabilitation objectives, and the services to be provided under the plan.

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E. A summary of the client's appeal rights under parts 3325.0480 to 3325.0500 and the means by which the client can obtain assistance through the client assistance program.

F. The identity of and means by which the client can contact organized support and advocacy groups of the blind or deaf-blind in Minnesota.

Subp. 3. Basis for contents of written plan. The rehabilitation goal and services identified in a client's written plan must be based on and supported by information obtained in the client's preliminary and thorough evaluations and any subsequent information developed during the rehabilitation process in assessing the client's rehabilitation potential and service needs.

Subp. 4. Assessment of progress under written plan. The client and the client's rehabilitation counselor shall assess the client's progress under the written plan as frequently as necessary, but at least once a year according to the schedule established in the written plan. The client must be offered an opportunity to participate in the assessment which must consist of a review of information relevant to the client's progress toward the intermediate rehabilitation objectives and rehabilitation goal in the plan.

Subp. 5. Amendment to written plan. A client's written plan must be amended jointly by the client and the client's rehabilitation counselor at any time when necessary to reflect changes in the client's service needs, financial situation, health, intermediate rehabilitation objectives, or rehabilitation goal. Both the client and the client's rehabilitation counselor must re-sign the written plan when both have agreed on an amendment.

3325.0250 SCOPE OF SERVICES TO CLIENTS.

SSB provides the following services to independent living clients subject to the conditions specified in part 3325.0420:

- A. adjustment to blindness services which consist of rehabilitation counseling, rehabilitation teaching services, and orientation and mobility services;
- B. advocacy services;
- C. communication center services;
- D. diagnostic evaluation services;
- E. interpreter services;
- F. low vision services;
- G. maintenance;
- H. note-taking services;
- I. reader services;
- J. referral services;
- K. restoration services;
- L. services to family members identified in part 3325.0110, subpart 72, items B, C, and E;
- M. telecommunications, sensory, and other technological aids and devices; and
- N. transportation services.

3325.0260 TERMINATION OF SERVICES.

Subpart 1. Conditions for refusing services to referrals, applicants, and unrehabilitated clients. SSB may refuse to provide or terminate the provision of services to a referral, applicant, or unrehabilitated independent living client only if the referral, applicant, or client:

- A. does not satisfy the eligibility conditions of the program identified in part 3325.0210; or
- B. has left the state or been impossible to contact after reasonable efforts by SSB to do so; or
- C. has died; or
- D. has refused to comply with any of the requirements of parts 3325.0120 to 3325.0470 or with any terms or conditions in the client's written plan; or
- E. has refused to accept or use the rehabilitation services necessary to rehabilitate the client. Before terminating or refusing to provide services based on this condition, the client's rehabilitation counselor shall explain to the client the purpose of the program and the services to be provided and shall encourage the client's participation.

Subp. 2. Conditions for terminating the provision of services to rehabilitated clients. SSB shall terminate services being provided to an independent living client due to rehabilitation of the client if the client has achieved the intermediate rehabilitation objectives and rehabilitation goal identified in the client's written plan and if the client:

- A. has moved to a less restrictive living situation; or
- B. needs less personal assistance in one or more of the following areas:
 - (1) personal hygiene and grooming;
 - (2) eating and meal preparation for oneself;
 - (3) communicating; or
 - (4) traveling.

Subp. 3. **Consultation prior to termination.** If SSB expects to terminate services a client is receiving under a written plan for any reason, SSB must, before termination, offer the client an opportunity to discuss the anticipated termination in accordance with the Code of Federal Regulations, title 34, section 365.36(d)(1).

Subp. 4. **Notice of termination and amendment to written plan.** If a client's services are to be terminated for reasons other than successful rehabilitation under subpart 2, SSB shall notify the client and amend the client's written plan to reflect the termination. The notice and amendment must contain a summary or description of the information or circumstances upon which the termination decision was based and a summary of the client's appeal rights under parts 3325.0480 to 3325.0500. If the termination decision was based on the client's refusal to accept or use necessary services provided by SSB, the amendment must include a description of the efforts made by SSB to encourage the client's participation in the rehabilitation process.

3325.0270 CASE RECORD.

SSB shall maintain for each applicant and client a case record that contains the information required under the Code of Federal Regulations, title 34, section 365.35.

SELF-CARE PROGRAM

3325.0280 CONDITIONS OF ELIGIBILITY.

An applicant is eligible for rehabilitation services under the self-care program only if:

- A. the applicant has a visual disability that limits the person's ability to perform self-care activities;
- B. there is a reasonable expectation that providing the applicant with rehabilitation services available under part 3325.0320 is likely to improve the applicant's ability to perform self-care activities; and
- C. the applicant is age 55 or older.

3325.0290 PRELIMINARY EVALUATION.

Subpart 1. **Purpose of evaluation.** SSB shall conduct a preliminary evaluation to determine whether an applicant is eligible for rehabilitation services under the self-care program.

Subp. 2. **Scope of evaluation.** Each eligibility determination must be based on the information specified in items A, B, and C.

A. A written report which documents the results of a medical eye or optometric examination of the applicant and which is signed by a physician or optometrist. The report contains sufficient information for eligibility purposes if, in conjunction with the report required under item B, it enables the applicant's rehabilitation counselor or the ophthalmologic consultant who reviews the report to determine whether the applicant is blind or has a visual disability as of the date of application.

B. A written report which documents the results of a general medical examination of the applicant and which is signed by a physician. The report contains sufficient information for eligibility purposes if it enables the applicant's rehabilitation counselor or the medical consultant who reviews the report to determine whether the applicant has any nonvisual disabilities as of the date of application which could limit the applicant's ability to make improvements in performing self-care activities.

C. Information needed to determine whether:

- (1) the applicant's visual disability limits the applicant's ability to perform self-care activities;
- (2) there is a reasonable expectation that providing rehabilitation services to the applicant is likely to improve the applicant's ability to perform self-care activities; and
- (3) the applicant is age 55 or older.

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Subp. 3. **Notice of eligibility.** After a rehabilitation counselor has determined that an applicant is eligible for rehabilitation services, the rehabilitation counselor shall inform the applicant of the eligibility determination. The notice must be given orally or in writing within ten working days after the determination is made.

Subp. 4. **Notice of ineligibility.** After a rehabilitation counselor has determined that an applicant is ineligible for rehabilitation services, the rehabilitation counselor shall inform the applicant in writing of the reasons for the determination and of the applicant's appeal rights under parts 3325.0480 to 3325.0500. The notice must be mailed or personally delivered by SSB within ten working days after the determination is made.

3325.0300 THOROUGH EVALUATION.

Subpart 1. **Purpose of evaluation.** After a client is determined eligible for rehabilitation services under the self-care program and before formulating the client's written plan, the client and the client's rehabilitation counselor shall conduct a thorough evaluation to identify the rehabilitation goal the client will pursue and the services needed to achieve the goal.

Subp. 2. **Scope of evaluation.** The thorough evaluation of each self-care client must consist of a review by the client and the client's rehabilitation counselor of the following:

- A. The client's nonvocational interests.
- B. The client's beliefs and concerns regarding the client's blindness or visual handicap and any information the client or rehabilitation counselor considers important in assessing the degree of counseling needed by the client to overcome any self-doubts caused by the client's blindness or visual handicap.
- C. The client's ability to travel independently and need for orientation and mobility services.
- D. The client's communication skills and need for braille instruction and other communication skills training.
- E. The client's self-care and homemaking skills and the need for rehabilitation teaching services.
- F. The client's ability to use residual vision and the extent to which low vision services could be used by the client in helping the client perform self-care activities which the client and rehabilitation counselor expect will be involved in implementing the client's written plan.
- G. Any other information needed to determine the client's rehabilitation goal and rehabilitation service needs.

3325.0310 INDIVIDUALIZED WRITTEN REHABILITATION PLAN.

Subpart 1. **Preparation of written plan.** After a thorough evaluation is completed, the client and the client's rehabilitation counselor shall jointly prepare an individualized written rehabilitation plan for the client. The client must be provided with a copy of the written plan.

Subp. 2. **Contents of written plan.** The written plan must contain the following information:

- A. The rehabilitation goal which the rehabilitation counselor and client have agreed to pursue and the intermediate rehabilitation objectives necessary to attain the client's rehabilitation goal.
- B. The specific rehabilitation services which the client must receive in order to achieve the client's intermediate rehabilitation objectives and rehabilitation goal.
- C. The views of the client concerning the client's rehabilitation goal, intermediate rehabilitation objectives, and the services to be provided under the plan.
- D. The identity of and means by which the client can contact organized support and advocacy groups of the blind or deaf-blind in Minnesota.
- E. A summary of the client's appeal rights under parts 3325.0480 to 3325.0500.

Subp. 3. **Basis for contents of written plan.** The rehabilitation goal and services identified in a client's written plan must be based on and supported by information obtained in the client's preliminary and thorough evaluations and any subsequent information developed during the rehabilitation process in assessing the client's rehabilitation potential and service needs.

Subp. 4. **Assessment of progress under written plan.** The client and the client's rehabilitation counselor shall assess the client's progress under the written plan as frequently as necessary, but at least once a year. The client must be offered an opportunity to participate in the assessment which must consist of a review of information relevant to the client's progress toward the intermediate rehabilitation objectives and rehabilitation goal in the plan. If the client is enrolled in a training program at a rehabilitation facility, the assessment must include a review of written reports on the client's progress submitted to SSB by the rehabilitation facility as required under part 3325.0470.

Subp. 5. **Amendment to written plan.** A client's written plan must be amended jointly by the client and the client's rehabilitation

counselor at any time when necessary to reflect changes in the client's service needs, financial situation, health, intermediate rehabilitation objectives, or rehabilitation goal.

3325.0320 SCOPE OF SERVICES.

SSB provides the following services to self-care clients subject to the conditions specified in part 3325.0420:

- A. adjustment to blindness services which consist of rehabilitation counseling, rehabilitation teaching services, and orientation and mobility services;
- B. advocacy services;
- C. communication center services;
- D. diagnostic evaluation services;
- E. interpreter services;
- F. low vision services;
- G. referral services;
- H. services to family members identified in part 3325.0110, subpart 72, items B, C, and E; and
- I. transportation services.

3325.0330 TERMINATION OF SERVICES.

Subpart 1. **Conditions for refusing services to referrals, applicants, and unrehabilitated clients.** SSB may refuse to provide or terminate the provision of services to a referral, applicant, or unrehabilitated self-care client only if the referral, applicant, or client:

- A. does not satisfy the eligibility conditions of the program identified in part 3325.0280; or
- B. has left the state or been impossible to contact after reasonable efforts by SSB to do so; or
- C. has died; or
- D. has refused to comply with any of the requirements of parts 3325.0120 to 3325.0470 or with any terms or conditions in the client's written plan; or
- E. has refused to accept or use the rehabilitation services necessary to rehabilitate the client. Before terminating or refusing to provide services based on this condition, the client's rehabilitation counselor shall explain to the client the purpose of the program and the services to be provided and shall encourage the client's participation.

Subp. 2. **Conditions for terminating the provision of services to rehabilitated clients.** SSB shall terminate services being provided to a self-care client due to rehabilitation of the client if the client has achieved the intermediate rehabilitation objectives and rehabilitation goal identified in the client's written plan and if the client:

- A. has moved to a less restrictive living situation; or
- B. needs less personal assistance in one or more of the following areas:
 - (1) personal hygiene and grooming;
 - (2) eating and meal preparation for oneself;
 - (3) communicating; or
 - (4) traveling.

Subp. 3. **Notice of termination and amendment to written plan.** If a client's services are to be terminated for reasons other than successful rehabilitation under subpart 2, SSB shall notify the client and amend the client's written plan to reflect the termination. The amendment and notice must contain a summary or description of the information or circumstances upon which the termination decision was based and a summary of the client's appeal rights under parts 3325.0480 to 3325.0500. If the termination decision was based on the client's refusal to accept or use necessary services provided by SSB, the amendment must include a description of the efforts made by the rehabilitation counselor to encourage the client's participation in the rehabilitation process.

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3325.0340 CASE RECORD.

SSB shall maintain for each applicant and client a case record that contains all the information pertaining to the applicant or client that SSB has obtained or developed as a part of the rehabilitation process.

CHILD REHABILITATION PROGRAM

3325.0350 CONDITIONS OF ELIGIBILITY.

An applicant is eligible for rehabilitation services under the child rehabilitation program only if:

- A. the applicant has a visual disability that limits or is likely to limit the applicant's capacity for growth and development;
- B. there is a reasonable expectation that providing the applicant with rehabilitation services available under part 3325.0390 is likely to improve the applicant's capacity for growth and development; and
- C. the applicant is under age 21.

3325.0360 PRELIMINARY EVALUATION.

Subpart 1. **Purpose of evaluation.** SSB shall conduct a preliminary evaluation to determine whether an applicant is eligible for rehabilitation services under the child rehabilitation program.

Subp. 2. **Scope of evaluation.** Each eligibility determination must be based on the information specified in items A, B, and C.

A. A written report which documents the results of a medical eye or optometric examination of the applicant and which is signed by a physician or optometrist. The report contains sufficient information for eligibility purposes if, in conjunction with the report required under item B, it enables the applicant's rehabilitation counselor or the ophthalmologic consultant who reviews the report to determine whether the applicant is blind or has a visual disability as of the date of application.

B. A written report which documents the results of a general medical examination of the applicant and which is signed by a physician. The report contains sufficient information for eligibility purposes if it enables the applicant's rehabilitation counselor or the medical consultant who reviews the report to determine whether the applicant has any nonvisual disabilities as of the date of application which could limit the applicant's ability to make improvements in growth and development.

C. Information regarding the applicant's educational background and other information needed to determine whether:

- (1) the applicant has a visual disability that limits or is likely to limit the applicant's capacity for growth and development;
- (2) there is a reasonable expectation that providing the applicant with rehabilitation services available under part 3325.0390 is likely to improve the applicant's capacity for growth and development; and
- (3) the applicant is under age 21.

Subp. 3. **Notice of eligibility.** After a rehabilitation counselor has determined that an applicant is eligible for rehabilitation services, the rehabilitation counselor shall inform the applicant in writing of the eligibility determination. The notice must be mailed or personally delivered by SSB within ten working days after the determination is made.

Subp. 4. **Notice of ineligibility.** After a rehabilitation counselor has determined that an applicant is ineligible for rehabilitation services, the rehabilitation counselor shall inform the applicant in writing of the reasons for the determination and of the applicant's appeal rights under parts 3325.0480 to 3325.0500. The notice must be mailed or personally delivered within ten working days after the decision is made.

3325.0370 THOROUGH EVALUATION.

Subpart 1. **Purpose of evaluation.** After a client is determined eligible for rehabilitation services under the child rehabilitation program and before formulating the client's written plan, the client and the client's rehabilitation counselor shall conduct a thorough evaluation to identify the rehabilitation goal the client will pursue and the services needed to achieve the goal.

Subp. 2. **Scope of evaluation.** The thorough evaluation of each child rehabilitation client must consist of a review by the client and the client's rehabilitation counselor of the following:

- A. The client's level of education, relative performance in school, and major areas of educational emphasis.
- B. The client's vocational and nonvocational interests.
- C. The client's and the client's family's beliefs and concerns regarding the client's blindness or visual handicap and any information the client or rehabilitation counselor considers important in assessing the degree of counseling needed by the client to overcome any self-doubts caused by the client's blindness or visual handicap.
- D. The client's ability to travel independently and need for orientation and mobility services.
- E. The client's communication skills and need for braille instruction and other communication skills training.

F. The client's self-care and homemaking skills and the need for rehabilitation teaching services.

G. The client's ability to use residual vision and the extent to which low vision services could be used by the client in helping the client perform specific vocational, educational, or self-care activities which the client and rehabilitation counselor expect will be involved in implementing the client's written plan.

H. The reports obtained for the preliminary evaluation under part 3325.0360, subpart 2, and the results of any additional medical, optometric, or audiological examinations which the client's rehabilitation counselor, in consultation with the medical or ophthalmologic consultant, considers necessary to determine how and to what extent the client's visual disability can be corrected or minimized by restoration services.

I. Any other information needed to determine the client's rehabilitation goal and rehabilitation service needs.

3325.0380 INDIVIDUALIZED WRITTEN REHABILITATION PLAN.

Subpart 1. **Preparation of written plan.** After a thorough evaluation is completed, the client and the client's rehabilitation counselor shall jointly prepare an individualized written rehabilitation plan for the client. The written plan must be signed by the rehabilitation counselor and the client's legal representative. The client must be provided with a copy of the written plan.

Subp. 2. **Contents of written plan.** The written plan must contain the following information:

A. The rehabilitation goal which the rehabilitation counselor and client have agreed to pursue and the intermediate rehabilitation objectives necessary to attain the client's rehabilitation goal.

B. The specific rehabilitation services which the client must receive in order to achieve the client's intermediate rehabilitation objectives and rehabilitation goal.

C. The views of the client concerning the client's rehabilitation goal, intermediate rehabilitation objectives, and the services to be provided to the client.

D. The identity of and means by which the client can contact organized support and advocacy groups of the blind and deaf-blind in Minnesota.

E. A summary of the client's appeal rights under parts 3325.0480 to 3325.0500.

Subp. 3. **Basis for contents of written plan.** The rehabilitation goal and services identified in a client's written plan must be based on and supported by information obtained in the client's preliminary and thorough evaluations and subsequent information developed during the rehabilitation process in assessing the client's rehabilitation potential and service needs.

Subp. 4. **Assessment of progress under written plan.** The client and the client's rehabilitation counselor shall assess the client's progress under the written plan as frequently as necessary, but at least once a year. The client must be offered an opportunity to participate in the assessment which must consist of a review of information relevant to the client's progress toward the intermediate rehabilitation objectives and rehabilitation goal in the plan. If the client is enrolled in a primary or secondary school, the assessment must include a review of the client's most current official school transcript or grade reports. If the client is enrolled in a training program at a rehabilitation facility, the assessment must include a review of written reports on the client's progress submitted to SSB by the rehabilitation facility as required under part 3325.0470.

Subp. 5. **Amendment to written plan.** A client's written plan may be amended jointly by the client and the client's rehabilitation counselor at any time to reflect changes in the client's service needs, financial situation, health, intermediate rehabilitation objectives, or rehabilitation goal. The amendment must be signed by the client's legal representative unless the amendment is a closure amendment under part 3325.0390, subpart 3.

3325.0390 SCOPE OF SERVICES.

SSB provides the following services to child-status clients subject to the conditions specified in part 3325.0420:

A. adjustment to blindness services which consist of rehabilitation counseling, rehabilitation teaching services, and orientation and mobility services;

B. advocacy services, including nonfinancial assistance to clients in receiving age-appropriate exploration of vocational opportunities;

C. communication center services;

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- D. diagnostic evaluation services;
- E. low vision services;
- F. referral services;
- G. interpreter services;
- H. restoration services related to the correction or improvement of sight;
- I. services to family members identified in part 3325.0110, subpart 72, items B, C, and E; and
- J. telecommunications, sensory, and other technological aids and devices.

3325.0400 TERMINATION OF SERVICES.

Subpart 1. **Conditions for refusing services to referrals, applicants, and unrehabilitated clients.** SSB may refuse to provide or terminate the provision of services to a referral, applicant, or unrehabilitated child rehabilitation client only if the referral, applicant, or client:

- A. does not satisfy the eligibility conditions of the program identified in part 3325.0350; or
- B. has left the state or been impossible to contact after reasonable efforts by SSB to do so; or
- C. has died; or
- D. has refused to comply with any of the requirements of parts 3325.0120 to 3325.0470 or with any terms or conditions in the client's written plan; or
- E. has refused to accept or use the rehabilitation services necessary to rehabilitate the client. Before terminating or refusing to provide services based on this condition, the client's rehabilitation counselor shall explain to the client the purpose of the program and the services to be provided and shall encourage the client's participation.

Subp. 2. **Conditions for terminating the provision of services to rehabilitated clients.** SSB shall terminate services being provided to a child rehabilitation client due to rehabilitation of the client if the client has achieved the intermediate rehabilitation objectives and rehabilitation goal identified in the client's written plan and displayed evidence of improved growth and development.

Subp. 3. **Notice of termination and amendment to written plan.** If a client's services are to be terminated for reasons other than successful rehabilitation under subpart 2, SSB shall notify the client and amend the client's written plan to reflect the termination. The amendment and notice must contain a summary or description of the information or circumstances upon which the termination decision was based and a summary of the client's appeal rights under parts 3325.0480 to 3325.0500. If the termination decision was based on the client's refusal to accept or use necessary services provided by SSB, the amendment must include a description of the efforts made by the rehabilitation counselor to encourage the client's participation in the rehabilitation process.

3325.0410 CASE RECORD.

SSB shall maintain for each applicant and client a case record that contains all the information pertaining to the applicant or client that SSB has obtained or developed as a part of the rehabilitation process.

PROGRAM ADMINISTRATION

3325.0420 CONDITIONS OF SERVICE.

Subpart 1. **Source of services.** Services provided by SSB may be provided directly to clients by SSB staff or purchased for clients from third parties such as physicians, optometrists, private businesses, state agencies, and rehabilitation facilities that meet the standards identified in part 3325.0470.

Subp. 2. **Conditions governing the provision of all rehabilitation services.** Subject to subparts 3 to 14, SSB shall ensure that each client receives only the available rehabilitation services necessary to enable the client to achieve the client's intermediate rehabilitation objectives and rehabilitation goal except:

- A. SSB shall not provide a rehabilitation service, other than a diagnostic evaluation service, to a client unless the service is identified in a written plan; and
- B. SSB shall not provide a rehabilitation service to a client if the client's school district is legally obligated to provide the service unless the school district's provision of the service would not meet the rehabilitation needs of the client as determined by SSB in which case SSB shall provide the service until the school district agrees to provide an adequate level of the service or is specifically ordered to do so in an administrative or judicial proceeding.

Subp. 3. **Communication center services.** SSB shall provide communication center services to a person, regardless of whether the person is a client, if the person provides SSB with written documentation signed by a physician, optometrist, or other "competent authority" as defined in the Code of Federal Regulations, title 36, section 701.10(b)(2), stating that the person has a physical

disability that prevents the person from reading standard printed material.

Subp. 4. Interpreter services. Items A and B govern the provision of interpreter services.

A. SSB may provide interpreter services to a client only if the client is diagnosed as deaf by an audiologist or a physician skilled in diseases of the ear.

B. Interpreter services may be provided only for communication needs that result from implementing the client's written plan.

Subp. 5. Low vision services. Items A to C govern the provision of low vision services.

A. Low vision aids requiring prescription must be prescribed by a low vision clinician. Low vision aids which do not require prescription may be provided directly by a low vision specialist or clinician.

B. The provision of vision aids must be followed by training in the use of such aids by a low vision specialist or low vision clinician.

C. SSB shall not provide low vision services to a client who is or is likely to become legally blind in place of instruction in the use of alternative techniques necessary for achievement of the client's rehabilitation goal.

Subp. 6. Maintenance. Maintenance may be provided to a client only in the minimum amount necessary to meet the basic subsistence expenses which result from implementing the client's written plan. The amount of maintenance and the specific expenses for which the maintenance will be provided must be documented in the client's written plan.

Subp. 7. Note-taking services. Items A and B govern the provision of note-taking services.

A. Note-taking services may be provided to a client only if the client has a medical condition other than blindness which renders the client unable to use braille or other means to record information for later use.

B. Note-taking services may only be provided for note-taking needs that result from implementing the client's written plan.

Subp. 8. Orientation and mobility services. Items A to C govern the provision of orientation and mobility services.

A. SSB shall provide outdoor cane travel instruction to a client unless:

(1) the client is not expected to travel alone outside the client's residence because of one or more severe nonvisual disabilities; or

(2) the client and an orientation and mobility specialist or a person described in item B determine that the client can travel safely and independently outside the client's residence without receiving outdoor cane travel instruction.

B. Travel techniques for purposes of outdoor travel must be taught by an orientation and mobility specialist or a person who has, to the satisfaction of the director, demonstrated a mastery of the travel techniques used by blind persons and the ability to safely and effectively teach these techniques to others. The director shall determine whether a person is qualified in these areas by considering all of the following factors:

(1) the person's education;

(2) the person's prior experience in rehabilitation; and

(3) any performance evaluations or written tests of the person's skills in these areas that the director may require.

C. Orientation and mobility training of a client must give the client an opportunity to travel without the instructor and on increasingly difficult routes to help the client develop confidence in the client's ability to travel independently. Orientation and mobility training of legally blind clients who have some remaining vision must include the use of sleepshades unless an orientation and mobility specialist or a person described in item B determines that because of age or one or more nonvisual disabilities the use of sleepshades would be unsafe.

Subp. 9. Post-employment services. Items A and B govern the provision of post-employment services.

A. SSB may provide post-employment services as needed to keep a client employed only if:

(1) the client has been determined to be rehabilitated under part 3325.0190, subpart 2, item A; and

(2) the client's service needs do not require a complex or comprehensive rehabilitation effort.

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PROPOSED RULES

B. Post-employment services must not consist of supportive services such as transportation or maintenance unless the supportive services are provided in conjunction with nonsupportive services such as training.

Subp. 10. **Reader services.** Items A and B govern the provision of reader services.

A. SSB may provide reader services to a client only if:

- (1) the reading requirements result from implementation of the client's written plan; and
- (2) the material to be read is not available in braille or audio recording in time to meet an immediate need in the rehabilitation process which, if not met, would impede the client's rehabilitation progress.

B. A client receiving reader services must, each month, submit to SSB an invoice indicating the hours of reader services received.

Subp. 11. **Rehabilitation teaching services.** Items A to C govern the provision of rehabilitation teaching services.

A. SSB shall provide a client with instruction in braille unless the client can read print with enough proficiency to successfully complete the client's written plan or unless the client has a medical condition which prevents the client from reading braille.

B. Braille instruction must be provided by a rehabilitation teacher or a person who has demonstrated, to the satisfaction of the director, a mastery of grade 2 braille and the ability to teach grade 2 braille to blind persons. The director shall determine whether a person is qualified in these areas by considering all of the following factors:

- (1) the person's education;
- (2) the person's prior experience in rehabilitation; and
- (3) any performance evaluations or written tests of the person's skills in these areas that the director may require.

C. Rehabilitation teaching services other than braille instruction must be provided by a rehabilitation teacher or a person with a post-secondary degree in education or a human service or rehabilitation field who has demonstrated, to the satisfaction of the director, a mastery of alternative techniques other than braille or outdoor cane travel and the ability to teach alternative techniques to blind persons. The director shall determine whether a person is qualified in these areas by considering all of the following factors:

- (1) the person's education;
- (2) the person's prior experience in rehabilitation; and
- (3) any performance evaluations or written tests of the person's skills in these areas that the director may require.

Subp. 12. **Restoration services.** Items A to D govern the provision of restoration services.

A. SSB may provide a restoration service to a client only if:

- (1) the client's condition for which the restoration service is needed is stable or slowly progressive, or is an acute or chronic medical complication or emergency arising from or associated with the provision of restoration services;
- (2) the client's condition constitutes, contributes to, or, if not corrected, is likely to constitute or contribute to a substantial handicap to employment; and
- (3) the client's condition can be corrected or substantially modified within a reasonable period of time.

B. SSB may purchase restoration services only from physicians, optometrists, or other health professionals licensed under Minnesota Statutes, chapter 147 or 148.

C. SSB shall not pay for experimental medical supplies or procedures. Experimental supplies or procedures means:

- (1) health services which have progressed to limited human application and trial but which lack wide recognition as proven and effective procedures in clinical medicine as determined by the National Blue Cross and Blue Shield Association Medical Advisory Committee; and
- (2) drugs or devices that the United States Food and Drug Administration has not yet declared safe and effective for the use prescribed.

D. SSB shall pay for restoration services in accordance with the rates established by the United States Department of Health and Human Services for Medicare.

Subp. 13. **Transportation services.** Items A to C govern the provision of transportation services.

A. SSB may provide transportation services only for transportation requirements that result from implementing the client's written plan.

B. SSB shall provide the least expensive mode of transportation that serves the client's rehabilitation needs and accom-

modates any nonvisual disability-related limitations the client may have. When a private automobile or van is the mode of transportation identified in the client's written plan, SSB shall pay parking fees and mileage at the rate established for state of Minnesota employees in the current managerial plan published by the Minnesota Department of Employee Relations. This document is incorporated by reference and is not subject to frequent change. It is available for inspection at the Minnesota State Law Library.

C. SSB shall pay for the transportation of an escort to accompany the client while traveling only if the client cannot yet travel safely without the assistance of an escort.

Subp. 14. **Vocational training services.** SSB may provide tuition and supplies to a client for training at an institution of higher learning only if there is evidence that the client is capable of completing the required coursework or degree program. Tuition paid by SSB for training at a private or non-Minnesota institution of higher learning must not exceed the tuition charged by Minnesota public colleges, universities, or vocational technical institutes unless the necessary training is not available at a public Minnesota institution.

3325.0430 SIMILAR BENEFITS.

Subpart 1. **Scope.** Similar benefits which would contribute toward and not interfere with a client's rehabilitation must be used if available to a client or members of a client's family for all rehabilitation services identified in the client's written plan except:

A. diagnostic evaluation services provided for the purpose of determining vocational rehabilitation potential unless provided as part of an extended evaluation;

B. rehabilitation counseling;

C. referral services;

D. vocational training services other than tuition and materials for training at institutions of higher learning;

E. job placement services; or

F. post-employment services consisting of the services identified in this subpart.

Subp. 2. **Client responsibilities.** A client shall, with the assistance of the client's rehabilitation counselor, participate in the search for and use of similar benefits as follows:

A. Before receiving restoration services other than nonprescription low vision aids, a client shall file a claim or application for coverage with the client's health insurer, if any. If the client has no health insurance or if the restoration services provided are not covered by the client's health insurance, the client shall apply to a local human services agency for medical assistance under Minnesota Statutes, chapter 256B.

B. Before receiving any rehabilitation service other than those identified in subpart 1, items A to F, a client shall apply or provide evidence of having already applied for any state or federal assistance program for which the client's rehabilitation counselor determines the client may be eligible.

C. Before receiving vocational training services in an institution of higher learning, a client shall apply for educational grants sufficient to cover the costs of tuition, supplies, and living expenses.

D. The application for or use of similar benefits for restoration services or maintenance shall not be required if the application or use would significantly delay the provision of these services to the detriment of the client.

Subp. 3. **Relation to financial need eligibility.** The extent to which similar benefits are available to a client must be determined before determining the degree of financial participation required of the client under part 3325.0440.

3325.0440 FINANCIAL PARTICIPATION BY CLIENTS.

Subpart 1. **Services exempted from financial participation.** Regardless of a client's income, SSB shall not require client financial participation for the following services:

A. diagnostic evaluation services except those services provided under an extended evaluation which are not diagnostic in nature;

B. rehabilitation counseling and other adjustment to blindness services;

C. job placement services;

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- D. referral services;
- E. interpreter and note-taking services for the deaf-blind;
- F. low vision services up to a cumulative value of \$500;
- G. communication center services;
- H. maintenance or transportation services needed by a client to obtain adjustment to blindness services;
- I. reader services;
- J. telecommunications, sensory, and other technological aids and devices, other than those which can be classified as low vision aids, up to a cumulative value of \$3,000; and
- K. post-employment services consisting of the services identified in this subpart.

Subp. 2. **Services subject to financial participation.** An applicant or client may be required to participate in paying the cost of all rehabilitation services not exempted from financial participation under subpart 1.

Subp. 3. **Basis for determining the degree of financial participation required.** The degree of financial participation required of a client is determined on the basis of the client's monthly and annual family income in relation to the most recent estimate of Minnesota median income levels as adjusted for family size using the adjustment methodology specified in the Code of Federal Regulations, title 45, section 96.85. This estimate is published annually by the United States Department of Health and Human Services in the Federal Register. The applicable sections of the Federal Register are incorporated by reference.

Subp. 4. **No required financial participation.** A client whose monthly family income is equal to or less than the state median monthly income as adjusted for family size is not required to pay any portion of the cost of the rehabilitation services which the client receives.

Subp. 5. **Financial participation required.** A client whose monthly family income is more than the state median monthly income as adjusted for family size shall pay for rehabilitation services provided under the client's written plan an amount equal to the percentage by which the client's family income exceeds the adjusted median income. Example: If a client's monthly family income exceeds the state median monthly income adjusted for the client's family size by ten percent, the client shall pay ten percent of the cost of rehabilitation services provided under the client's written plan; SSB would pay 90 percent.

Subp. 6. **Limitation on financial participation.** Financial participation by a client in any month shall not exceed ten percent of the client's monthly family income as most recently determined by SSB or the difference between the client's monthly family income and the state median monthly income adjusted for the client's family size whichever is less.

Subp. 7. **Variance.** A client who is unable to pay for rehabilitation services to the extent required by subparts 4 and 5 because of unusual financial circumstances may apply to the director for a variance in the determination of the client's financial need as follows:

A. A request for a variance must be submitted in writing by the client or the client's legal representative. The request must provide the director with evidence describing the client's unusual financial situation. If additional information is required by the director to determine eligibility for a variance, SSB shall, within 15 days after receiving the written request, inform the client in writing of the specific additional information required.

B. The director shall determine whether the client is eligible for a variance and notify the client of the determination in writing within 30 days after the director receives all the information required under item A. The written notification must:

- (1) specify whether the client is eligible for a variance;
- (2) indicate the reasons for the determination;
- (3) specify the amount of the variance, if any;
- (4) inform the client of review and appeal rights under parts 3325.0480 to 3325.0500; and
- (5) be signed and dated by the director.

C. The director shall grant a variance only if the client provides clear evidence that it would be impossible for the client to make the cost contributions required under subparts 5 and 6 without using the client's savings because of:

- (1) court ordered financial obligations of the client;
- (2) legal financial obligations incurred by the client prior to being found eligible to receive rehabilitation services from SSB; or
- (3) extraordinary expenditures for necessities such as food, shelter, clothing, or medical care the client is required to make because of illness or disability.

Clear evidence means evidence that is positive, precise, and explicit, and that tends directly to establish the point on which it is offered.

D. A client who receives a variance shall immediately notify the director in writing if the client's financial situation improves.

E. The director may review the financial situation of a client who receives a variance at any time to determine whether the client's financial situation continues to justify the variance.

Subp. 8. **Income verification.** If a client's written plan includes or is expected to include rehabilitation services other than those identified in subpart 1, the client must provide SSB with written verification or a signed written statement of the client's current monthly family income and sources of income.

Subp. 9. **Annual redetermination.** SSB shall redetermine at least annually, the financial need of each client and of each former client who is still making lease payments on equipment under part 3325.0460.

3325.0450 RECOVERY OF MONETARY ASSISTANCE OVERPAYMENTS.

Subpart 1. **Written notification.** SSB shall notify a client in writing as soon as possible after discovering that the client has received monetary assistance from SSB in excess of that to which the client is entitled under parts 3325.0100 to 3325.0500. The written notification must:

- A. specify the dates and amounts of incorrect payments;
- B. indicate SSB's basis for determining that the payments were incorrect;
- C. inform the client of appeal rights under parts 3325.0480 to 3325.0500;
- D. indicate whether SSB intends to refer the case to the attorney general to investigate the possibility of fraud; and
- E. be signed and dated by the client's rehabilitation counselor.

Subp. 2. **Repayments.** Overpayments of maintenance benefits or other monetary assistance caused by client or SSB error or by a client's inability or refusal to continue implementing a written plan must be repaid by the client in a lump sum or in monthly payments of not less than ten percent of the incorrect payment or five percent of the client's monthly family income, whichever is less. If the client does not repay erroneous overpayments in accordance with this subpart, SSB may exercise its recoupment rights under Minnesota Statutes, section 248.091, subdivision 1.

3325.0460 PROVISION AND RECOVERY OF EQUIPMENT.

Subpart 1. **Scope.** For purposes of this part, the term "equipment" includes occupational equipment, occupational tools, and telecommunications, sensory, and other technological aids and devices provided to a client by SSB as part of the client's written plan.

Subp. 2. **Written lease agreement.** Prior to receiving any item of equipment costing \$300 or more, a client shall sign a written lease agreement which indicates the duration of the lease, the financial obligations of the client under subpart 3, if any, and the terms for renewal. The duration of the lease must not exceed one year.

Subp. 3. **Lease payments.** Clients shall pay monthly lease charges on all equipment items leased under this part that are subject to client financial participation under part 3325.0440 unless clients choose to pay their entire financial obligation under part 3325.0440 in one lump sum. The maximum monthly lease charge must be equal to the purchase price of the equipment and handling costs incurred by SSB divided by 60. A client shall pay a percentage of the monthly lease charge equal to the percentage by which the client's monthly family income exceeds the adjusted median income estimate referred to in part 3325.0440, subpart 3, unless the client elects to pay more. SSB shall not require lease payments in amounts that would cause a client's monthly financial participation to exceed the limits established in parts 3325.0440, subpart 6.

Subp. 4. **Lease renewal.** Unless the equipment is subject to transfer of title under subpart 5, SSB shall renew the lease to the equipment upon expiration of the lease if the client still wants and needs the equipment to achieve or maintain the client's rehabilitation goal. Renewal of the lease requires the signature of the client and SSB.

Subp. 5. **Total client financial obligation.** A client or former client shall continue making lease payments until the client or former client has paid the portion of the total purchase and handling cost of the equipment that the client is required to pay under part 3325.0440, subpart 5.

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Subp. 6. **Transfer of title.** SSB shall transfer legal title of equipment leased under this part to a client or former client if the following conditions are satisfied:

- A. five calendar years have elapsed since the client or former client signed the lease under subpart 2;
- B. the client or former client has met the financial obligations under part 3325.0440;
- C. the client or former client continues to want and need the equipment for employment; and
- D. the client or former client has not requested or received a lease extension under subpart 7.

Subp. 7. **Lease extension in lieu of transfer.** When the conditions of subpart 6, items A, B, and C are satisfied, a client or former client may request an extension of a lease in which case SSB shall extend the lease unless SSB does not have the means and resources to provide maintenance for the equipment. If the lease is extended under this subpart, the client or former client shall pay a monthly charge equal to the estimated maintenance costs for the type of equipment being leased.

Subp. 8. **Maintenance responsibility.** SSB shall be responsible for regular maintenance and repair of equipment leased under this part unless title to the equipment has been transferred to the client or other party under subpart 6.

Subp. 9. **Employer responsibility.** SSB shall not provide an employed client with equipment that the client's employer normally provides to employees. If the equipment is not normally provided by the employer, SSB shall ask the client's employer to pay all or a portion of the cost of equipment needed by the client. SSB and the client shall contribute toward the cost of equipment only to the extent the client's employer refuses to contribute.

Subp. 10. **Recovery of equipment.** A client shall return leased equipment to SSB if:

- A. the client fails to make the lease payments required under subpart 3;
- B. the client's lease to the equipment has expired and the conditions of subpart 4 or 6 have not been satisfied; or
- C. the conditions of subpart 3 and subpart 4 or 6 have been met but the client has refused to execute a renewal of the expired lease as required under subpart 4 or has refused to sign the documents necessary to facilitate a transfer of title under subpart 6.

If the client fails to return the equipment as required under this subpart, SSB may recover the equipment or the reasonable value of the equipment under Minnesota Statutes, section 248.091, subdivision 2.

Subp. 11. **Abuse or neglect of equipment.** SSB shall not provide additional equipment to a client if the client has a history of abuse or neglect with respect to equipment previously provided to the client by SSB. History of abuse or neglect means that on two or more occasions equipment provided to a client has sustained, by reason of acts or omissions of the client, damage beyond that which would result from normal use.

3325.0470 STANDARDS FOR REHABILITATION FACILITIES.

Subpart 1. **Written operating agreement.** SSB shall execute written operating agreements with each rehabilitation facility from which SSB purchases rehabilitation services for clients unless the facility has a current operating agreement with the department or the rehabilitation agency of another state. The agreement must be signed by the director of the facility and the director of SSB and must contain, at a minimum, assurances that the facility will comply with the standards established in subparts 2 to 8. No rehabilitation facility may be reimbursed for services purchased by SSB unless the facility meets the standards established in subparts 2 to 8.

Subp. 2. **Applicable state and federal laws.** Rehabilitation facilities must comply with all applicable state and federal laws.

Subp. 3. **Representation and employment of the blind.** The governing bodies of rehabilitation facilities for the blind and visually handicapped must include blind or visually handicapped persons. Facilities shall make and document affirmative attempts to employ blind persons at all levels of employment.

Subp. 4. **Evaluation of facility effectiveness.** Facilities must have systematic procedures for evaluating program effectiveness. Facility staff shall periodically review aggregate data on the progress and outcome of clients served. The results of effectiveness evaluations must be available to the governing body of the facility, facility staff, SSB, and the public.

Subp. 5. **Protection of client records.** Access to a client's records must be managed in accordance with the Minnesota Data Practices Act and applicable federal laws. Client records must be stored under lock with reasonable protection against fire, water damage, and other hazards.

Subp. 6. **Curriculum for adjustment to blindness services.** Facilities for the blind and visually handicapped must have educational curriculums for the provision of adjustment to blindness services which comply with the requirements of items A to E.

A. The curriculum must include a class designed to help clients develop a positive attitude toward blindness. If the facility serves deaf-blind clients, the facility's curriculum must include a class or session designed to develop a positive attitude about being both blind and deaf.

B. Low vision and adjustment to blindness services must be provided in accordance with the requirements established in part 3325.0420, subparts 5, 8, and 11.

C. Consistent with a client's written plan, all clients must be provided with the opportunity to engage in a wide range of activities for the purpose of building self-confidence and overcoming doubts and fears concerning what blind persons can do.

D. During training, all clients must be provided with the opportunity to interact with employed or otherwise independent blind persons who are not in need of rehabilitation services.

E. The curriculum must include a requirement that clients use the alternative technique skills they are learning outside the facility and manage their own lives in areas of cooking, shopping, financial matters, housekeeping, and upkeep of clothing.

Subp. 7. **Progress reports.** Facilities must provide SSB with written reports each month concerning the progress of clients in the development of self-confidence and performance of self-care activities.

Subp. 8. **Location of rehabilitation facilities.** SSB shall not purchase services from a facility located outside the state of Minnesota unless:

A. the client needs rehabilitation services which are not available at rehabilitation facilities within Minnesota;

B. the client's residence is geographically closer to a facility outside Minnesota than it is to any facility within Minnesota; or

C. the client expressly indicates that adjustment to blindness training is wanted at a facility outside the state. If a client obtains training at a non-Minnesota facility under this item, SSB shall not pay more for the client's training, maintenance, and transportation than it would otherwise pay for the client's training, maintenance, and transportation at a facility located in Minnesota.

3325.0480 ADMINISTRATIVE REVIEW.

Subpart 1. **Request for review.** An applicant or client may make an oral or written request to the director for a review and redetermination of any action taken by SSB regarding the provision or denial of rehabilitation services. To preserve the client's right to appeal, the request must be received by the director no more than 30 days after the applicant or client is notified of the action for which the review is requested. If the disputed SSB action is a proposed change in a client's written plan, the change must be delayed for 30 days beyond the effective date of the proposed change if the client's review request is received by the director prior to the effective date of the proposed change. The request for review must state:

A. the specific SSB action which the appellant wants reviewed;

B. the reasons for the appellant's dissatisfaction with the action;

C. the appellant's recommendation as to the action SSB should take in lieu of the action to be reviewed; and

D. whether the appellant desires a conference to discuss the action to be reviewed.

Subp. 2. **Review and redetermination.** Review and redetermination under this part must be conducted by supervisory staff. Supervisory staff conducting the review shall consider all written and oral evidence and argument presented from the time the request for review is received until the final decision is made. The final decision must be made by the reviewing supervisory staff within 30 days after the director receives the appellant's request for review unless agreed otherwise by the appellant and reviewing supervisory staff.

Subp. 3. **Review conference.** A review conference may be requested by the appellant or supervisory staff conducting the review. If a review conference is requested within five days after the director receives the administrative review request under subpart 1, a review conference must be held. The conference must be held within 15 days after the conference is requested. The supervisory staff conducting the review shall convene the conference at SSB during regular SSB working hours unless an alternative date, time, or place is agreed upon by the supervisor and appellant. When a time and place for the conference is set, the supervisor conducting the review shall notify the appellant of the time and place at least five days before the conference. At a minimum, the supervisor conducting the review, the appellant, and appropriate SSB staff shall participate in the conference. The appellant must be present at the conference but may be represented and may bring witnesses to speak on the appellant's behalf.

Subp. 4. **Written notice of decision.** The supervisory staff conducting the review shall notify the appellant in writing of the review decision. The notice must contain a summary of the nature and basis of the decision and the appellant's appeal rights under subpart 5.

Subp. 5. **Additional supervisory review.** If the appellant is dissatisfied with the supervisory review decision communicated

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PROPOSED RULES

under subpart 4 and wants to further contest that decision, the appellant shall request an additional review and redetermination by alternative supervisory staff. The appellant shall notify the director in writing of the request for an additional supervisory review within 15 days after receipt of the notice identified in subpart 4. If the request under this subpart is made, SSB shall provide the review and redetermination process identified in subparts 2 and 3.

Subp. 6. **Written notice of decision.** The supervisory staff conducting the review under subpart 5 shall notify the appellant in writing of the review decision. The notice must contain a summary of the nature and basis of the decision and the appellant's appeal rights under parts 3325.0490 to 3325.0500.

3325.0490 EVIDENTIARY HEARING.

Subpart 1. **Written request for hearing.** An applicant or client who is dissatisfied with the results of the administrative review under part 3325.0480, subpart 5, may request a hearing by submitting a written request for a hearing to SSB within 15 days after receiving the written notice of the administrative review decision under part 3325.0480, subpart 6.

Subp. 2. **Conduct of hearing.** If a hearing is requested under subpart 1, the hearing must be initiated and conducted in accordance with Minnesota Statutes, sections 14.57 to 14.62 and parts 1400.5100 to 1400.8500.

Subp. 3. **Decision and notice.** The director shall make the final decision after the hearing in accordance with Minnesota Statutes, sections 14.61 and 14.62 and shall not delegate the responsibility for making the final decision to any other person. The director shall notify the appellant of the decision in accordance with Minnesota Statutes, section 14.62.

3325.0500 APPEAL TO FEDERAL AGENCY.

A vocational rehabilitation or independent living client who is dissatisfied with the decision of the director after an evidentiary hearing may submit a written request for a review of the decision to the secretary. The written request must be submitted to the secretary after the client receives the written notice of decision under part 3325.0490, subpart 3. The secretary will review the decision and make recommendations to the director concerning action to be taken. Within 60 days after receiving these recommendations, the director shall notify the appellant and the secretary of the final disposition of the matter in writing.

Board of Medical Examiners

Proposed Permanent Rules Relating to Fees

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Medical Examiners (hereinafter "Board") proposes to amend the above-entitled rule without a public hearing. The Board has determined that the proposed rule changes will be noncontroversial in nature pursuant to Minn. Stat. § 16A.128 (1984) and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1984).

Interested persons shall have 30 days in which to submit comments in support of or in opposition to the proposed rule amendment. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment being addressed, the reason for the comment, and any change proposed. The proposed rule amendment may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

PLEASE NOTE THAT NO PUBLIC HEARING WILL BE HELD ON THIS RULE AMENDMENT UNLESS 20% OR MORE OF THE PERSONS WHO WILL BE REQUIRED TO PAY THE FEES REQUEST SUCH A HEARING.

Persons who wish to should submit comments or requests to:

David Ziegenhagen
Executive Director
Minnesota Board of Medical Examiners
Suite 106
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0538

The statutory authority of the board to adopt the proposed rule amendment is contained in Minn. Stat. § 16A.128 and 146.13 (1984).

If adopted, the proposed rule amendment would set the fees for admission to examination, licensure, renewal of license, and late fees.

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed changes has been prepared and is also available from the Board upon request.

Promulgation of the proposed rule amendment will not result in the expenditure of public monies by local public bodies. In accordance with Minn. Stat. § 14.115 (1984), the Board's consideration of any such effect on small business will be addressed in the Statement of Need and Reasonableness. Persons representing small businesses are invited to participate in the rulemaking process.

Upon adoption of the final rule amendment without a public hearing, the proposed changes, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendment as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial changes. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule amendment as proposed for adoption, should submit a written statement of such request to David Ziegenhagen.

Dated: 4 August 1986

David Ziegenhagen, Executive Director
Board of Medical Examiners

Rules as Proposed

5600.2500 ANNUAL FEES.

The fees charged by the board are fixed at the following rates:

- A. physician examination fee, ~~\$300~~ \$425;
- B. physician application fee, \$100;
- C. physician annual registration, ~~\$40~~ \$80;
- D. ~~osteopath annual registration, \$40;~~
- E. physician certification to other states, \$10; ~~and~~
- F. ~~E. physician~~ temporary licenses, \$40;
- F. physician late fee, \$40;
- G. physical therapist application fee, \$40;
- H. physical therapist examination fee, \$90;
- I. physical therapist annual registration, \$15;
- J. physical therapist late fee, \$7; and
- K. physical therapist certification to other states, \$10.

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Human Services

Adopted Rules Relating to Administration of Aid to Families with Dependent Children

The rule proposed and published at *State Register*, Volume 10, Number 42, pages 2107-2157, April 14, 1986 (10 S.R. 2107) is adopted with the following modifications:

Rules as Adopted

9500.2060 DEFINITIONS.

Subp. 25. **Child support pass through.** "Child support pass through" means the \$50 payment authorized under Code of Federal Regulations, title 45, section 302.51(b)(1).

Subp. 73. **Inquiry.** "Inquiry" means a communication to a local agency through mail, telephone, or in person, by which a parent, caretaker of minor children, or authorized representative requests information about AFDC or emergency assistance. The local agency shall also treat as an inquiry any communication in which a person requesting assistance offers information about his or her family's circumstances which indicates that eligibility for AFDC or emergency assistance may exist.

9500.2100 APPLICATION FOR ASSISTANCE.

Subp. 2. **Local agency responsibility to provide information.** A local agency shall inform a person who inquires about the program's eligibility requirements and how to apply for AFDC. A local agency shall offer the person brochures developed or approved by the commissioner that describe how to apply for AFDC.

Subp. 4. **Assessment of and issuance for initial needs.** When a person inquires about assistance, a local agency shall ask the person if immediate or emergency needs exist. When a person has emergency needs, the local agency shall determine that person's eligibility for emergency assistance unless the person's needs can be met through other sources or by promptly processing an application for monthly assistance.

C. When an emergency does not exist, a local agency may issue assistance before it completes the verification of eligibility. However, when an applicant is later found ineligible for that assistance, the local agency may not claim federal or state AFDC financial participation in the cost of the assistance issued. When federal and state AFDC financial participation is not available, the local agency may request general assistance state financial participation retroactive to the date of application for AFDC according to general assistance payment standards if the applicant was eligible for that program.

Subp. 6. **Processing application.** Upon receiving an application, a local agency shall determine the applicant's program eligibility, approve or deny the application, inform the applicant of its decision according to part 9500.2740, subpart 5, and issue assistance when the applicant is eligible. When a local agency is unable to process an application within 45 days, the local agency shall inform the applicant of the reason in writing. When an applicant establishes the inability to provide required verification within the 45-day processing period, the local agency may not use the expiration of that period as the basis for denial.

9500.2300 UNEMPLOYED PARENT.

To be considered an unemployed parent, a parent must meet the requirements in items A to H I.

G. The parent shall have:

(2) worked at least six quarters during any 13 calendar quarter period ending within one year prior to the quarter date of the original application for assistance and earned the equivalent of not less than \$50 per quarter during this period. Compensation for this work may be:

I. The parent shall apply for unemployment compensation benefits when the circumstances which cause loss of employment and the duration of and compensation for that employment indicate eligibility for those benefits. When that application establishes eligibility, the parent shall also comply with the requirements necessary to receive unemployment compensation benefits.

9500.2340 PROPERTY LIMITATIONS.

Subp. 2. **Real property limitations.** Ownership of real property by an applicant or recipient is subject to the limitations in items A and B.

A. A local agency shall exclude the homestead of an applicant or recipient, according to the provisions in subitems (1) to (3).

(2) The total amount of land that can be excluded under this subpart is limited to two adjoining contiguous platted lots in an incorporated city or town, ~~80 adjoining all contiguous~~ acres in an incorporated city or town when that land is not platted into lots, and all contiguous acres in all other areas; ~~no more than 80 acres~~. Additional adjoining contiguous platted lots ~~or land~~ must be assessed as to their legal and actual availability according to subpart 1.

(3) When real property that has been used as a home by a recipient is sold, the local agency shall treat the cash proceeds from that sale as excluded property for a period of ~~three~~ six months when the recipient intends to reinvest them in another home and maintains those proceeds, unused for other purposes, in a separate account.

Subp. 3. **Other property limitations.** The equity value of all nonexcluded real and personal property must not exceed \$1,000. To determine whether the value of an item of real or personal property is to be counted, a local agency shall exclude the value of real and personal property listed in items A to P:

B. The value of ~~real and~~ personal property needed to produce earned income, including tools, implements, farm animals, and inventory, but excluding ~~real estate, contracts for deed, and automobiles needed to produce income for the assistance unit and other motor vehicles used to provide transportation of persons or goods.~~

9500.2380 INCOME.

Subp. 2. **Excluded income.** A local agency shall exclude items A to DD from income:

U. nonrecurring cash gifts of \$30 or less, such as those received for holidays, birthdays, and graduations, ~~which do the total amount excluded not equal or to exceed \$30 per recipient in a calendar quarter;~~

V. tribal settlements excluded under Code of Federal Regulations, title 45, section 233.20(a)(4)(ii)(e), (k), and (m)-;

Subp. 4. **Earned income.** Earned income is treated according to items A to C.

A. Sick leave and vacation payments issued as a result of earned or accrued ~~sick~~ leave time are earned income.

9500.2420 DOCUMENTING, VERIFYING, AND REVIEWING ELIGIBILITY.

Subp. 4. **Factors to be verified.** A local agency shall verify factors of program eligibility at the time of application, when a factor of eligibility changes, and at each redetermination of eligibility under subpart 5.

B. A local agency shall verify the information in subitems (1) to (7) when it is either acknowledged by an applicant or recipient or obtained through a federally mandated verification system:

(7) the number of college credits for daytime courses taken by hours a person ~~whose is absent from a child when the person's~~ WIN exemption is based ~~upon the need to provide full-time care to a child under six years of age on part 9500.2700, subpart 15, item I.~~

Subp. 5. **Redetermination of eligibility; frequency.** A periodic redetermination of eligibility of a recipient must occur periodically at least semiannually as allowed under Code of Federal Regulations, title 45, section 206.10(a)(9); less frequently as waived annually when the recipient provides a monthly household report form or is in a low error category identified through an error-prone profile developed by the commissioner and approved by the United States Secretary of Health and Human Services; or as prescribed by the commissioner based on frequency of change or frequency of error in certain categories of cases as defined by the quality control review process a periodic redetermination of eligibility of all other recipients must occur semiannually, or more frequently for recipients in a high error category identified through an error-prone profile developed by the commissioner. One face-to-face redetermination of eligibility of each recipient must occur every 12 months. A local agency shall redetermine the eligibility of a recipient when a recipient household has changed its county of residence. A local agency may redetermine the eligibility of a recipient when a change which affects program eligibility is reported to the local agency.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

9500.2580 EMPLOYMENT DISREGARDS.

A local agency shall deduct the disregards in items A to D from gross earned income as defined in part 9500.2380:

A. A \$75 work expense, whether employment is part- or full-time. This disregard must be deducted from the gross earned income of each employed member of an assistance unit and for other financially responsible household members who are ineligible or otherwise excluded from the assistance unit, except that sanctioned persons who are not allowed allocations under part 9500.2600, item C must not receive this disregard. This expense is deducted for those financially responsible persons under part 9500.2500, subpart 4, item G, subitem (3), prior to the payment eligibility test under part 9500.2500, subpart 5, and must not be deducted a second time under part 9500.2500, subpart 5, item B.

B. A monthly deduction for documented costs for care of a dependent child or an adult dependent who is in the assistance unit. This disregard must only be deducted from the gross income of a member of an assistance unit or an ineligible parent, except that sanctioned persons who are not allowed allocations under part 9500.2600, item C must not receive this disregard. The deduction must not exceed \$160 per dependent when employment equals or exceeds 30 hours per week, or \$159 per dependent when employment is less than 30 hours per week. A deduction for dependent care costs is not allowed when the care is provided by a member of an assistance unit, by a parent of a dependent child, or by a spouse of a caretaker of a dependent child.

9500.2600 ALLOCATION FOR UNMET NEED OF OTHER HOUSEHOLD MEMBERS.

An allocation of income must be allowed to meet the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caretaker is financially responsible who also lives with the caretaker. This allocation An allocation must be made from the caretaker's income to meet the need of an ineligible or excluded spouse up to the amount allowed in the second adult standard. An allocation must be made from the caretaker's income to meet the need of an ineligible or excluded child. That allocation must be made in an amount up to the difference between the payment standard allowed for the assistance unit and the payment standard allowed when that excluded or ineligible child is included in the assistance unit. These allocations must be deducted from the caretaker's net earned income after the deductions under part 9500.2580 have been made and from unearned income subject to items A to C.

C. An allocation must be made from the caretaker's income to meet the need of an ineligible or excluded spouse up to the amount allowed in the second adult standard. An allocation must be made from the caretaker's income to meet the need of an ineligible or excluded child. That allocation must be made in an amount up to the difference between the payment standard allowed for a member of the assistance unit and the payment standard allowed when that excluded or ineligible child is included in the assistance unit Income of an assistance unit must not be allocated to meet the need of a person sanctioned for failure to cooperate with child support requirements under part 9500.2700, subpart 11, a person required to register with WIN under part 9500.2700, subpart 15, or a person sanctioned for failure to cooperate with WIN under part 9500.2700, subpart 18.

9500.2640 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS.

Subp. 8. **Issuing corrective payments.** A local agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment; or by issuing a separate payment to a current recipient, or by reducing an existing overpayment balance. When an underpayment occurs in a payment month and is not identified until the next payment month or later, that underpayment must first be subtracted from any overpayment balance before issuing the corrective payment. An underpayment for a current payment month must not be applied against an overpayment balance and payment must be issued within seven calendar days after the underpayment is identified.

9500.2680 PAYMENT PROVISIONS.

Subpart 1. **Checks.** This subpart applies to monthly assistance payments and corrective payments.

C. A local agency shall issue replacement checks under promptly, but no later than seven calendar days after the provisions of Minnesota Statutes, section 471.415 have been met.

9500.2700 APPLICANT AND RECIPIENT RESPONSIBILITIES.

Subp. 5. **Household reports.** A recipient shall complete monthly or quarterly household report forms as required by the commissioner Each assistant unit with a member who has earned income or a recent work history, and each assistant unit that has income allocated to it from a financially responsible person living with that unit who has earned income or a recent work history, shall complete a monthly household report form. "Recent work history" means the individual received earned income in any one of the three calendar months preceding the current payment month. Monthly reports must also be completed by each assistance unit in a category that has a greater proportion of the state's total program errors than that category's proportion of the state's total program caseload, as identified through the quality control review process, and when monthly reporting is expected to reduce the error rate for that category. All other assistance units shall complete a quarterly household report form. To be complete, a household report form must be signed and dated by a caretaker no earlier than the last day of the reporting period; all questions required to determine assistance payment eligibility must be answered, and documentation of earned income must be included. A recipient

shall submit the household report form in time for the local agency to receive it by the eighth calendar day of the month following the reporting period covered by the form. When the eighth calendar day of the month falls on a weekend or holiday, a recipient must submit the household report form in time for the local agency to receive it by the first working day that follows the eighth calendar day. Delays in submitting the completed household report form may delay an assistance payment in the month following the month in which the form is due. When the household report form is late without good cause, except as qualified in subpart 6, item C, the recipient is subject to the penalties in items A and B:

Subp. 12. **Good cause exemption from cooperating with support requirements.** Before requiring a caretaker to cooperate, a local agency shall notify an applicant that he or she may claim a good cause exemption from cooperating with the requirements in subpart 10, items B to D, under the conditions specified in Code of Federal Regulations, title 45, sections 232.12 and 232.40 to 232.49 at the time of application or at any subsequent time. When a caretaker submits a good cause claim in writing, action related to child support enforcement must stop. The caretaker shall submit evidence of a good cause claim to the local agency within 20 days of submitting the claim.

A. Good cause exists when a caretaker documents that:

D. A local agency shall determine whether good cause exists by comparing the good cause claim of the caretaker against based on the sufficiency weight of the evidence.

E. Once a local agency determines that good cause exists for a caretaker, the exemption from cooperating under subpart 10, items B and C must remain in effect for the period the dependent child remains eligible under that application, except for subitems (1) to (4).

(4) A good cause exemption must be allowed under subsequent applications and redeterminations of eligibility without additional evidence when the factors which led to the exemption continue to exist. A good cause exemption allowed under item B must end when the factors which led to allowing the exemption have changed.

Subp. 16. **Registration in WIN counties.** Items A to C apply to persons and local agencies in WIN counties.

C. When an applicant or recipient does not register with the WIN program and that applicant or recipient is not exempt, subitems (1) to (5) apply.

(2) When a mandatory WIN registrant is not the incapacitated parent in an assistance unit whose basis of program eligibility is incapacitated parent under part 9500.2220 and that mandatory registrant has not registered with WIN, assistance payment may be made for the needs of the remaining members of the assistance unit. ~~The needs of the incapacitated parent must be met at the first adult standard and the income of the mandatory registrant must be deducted at the second adult standard to meet his or her need. When the incapacitated parent also receives supplemental security income, the income of the mandatory WIN registrant must be deducted at the first adult standard to meet his or her need.~~

(3) When a mandatory WIN registrant is a parent, the basis of program eligibility is death of a parent or continued absence, and that caretaker has not registered for WIN, only the dependent child is eligible for assistance. ~~The income of the parent must be deducted at the first adult standard when the net income of that caretaker equals or exceeds that standard. The income of the parent must be deducted at an amount equal to the difference between the special child standard and the AFDC family allowance for an assistance unit which includes that caretaker when the net income of the caretaker is less than the first adult standard.~~

Subp. 18. **Sanctions for failure to cooperate with WIN.** When a WIN office notifies a local agency that it has deregistered an applicant or recipient from WIN for failure to cooperate with the WIN requirements, the local agency shall apply the sanctions in items A to C beginning with the first payment month following deregistration in which notification and appeal rights under part 9500.2740, subparts 5 to 10, allow application of those sanctions.

B. When a mandatory WIN registrant in an assistance unit that qualifies under part 9500.2300 is the parent who is not the principal wage earner, or when the mandatory WIN registrant is a parent caretaker in an assistance unit which qualifies under part 9500.2180, 9500.2220, or 9500.2260, that parent caretaker must be removed from the assistance unit. ~~Allocations to a parent who is under sanction must be made according to part 9500.2600.~~ The parent caretaker must be ineligible for a period of three payment months for the first occasion of deregistration or for six payment months for subsequent occasions of deregistration. Protective or vendor payments must be issued for the needs of the remaining members of the assistance unit under part 9500.2680, subpart 2, item A until the period of the sanction ends or the recipient who is under sanction is no longer a member of the filing unit.

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ADOPTED RULES

9500.2740 APPLICANT AND RECIPIENT RIGHTS AND LOCAL AGENCY RESPONSIBILITIES TO APPLICANTS AND RECIPIENTS.

Subp. 2. **Right to apply.** A person has the right to apply, including the right to reapply, for AFDC. A local agency shall inform a person who inquires about AFDC of his or her right to apply, shall explain how to apply, and shall offer a brochure about the program. When a local agency ends assistance, the local agency shall inform the recipient in writing of the right to reapply. When a report is received that indicates a loss of basis of eligibility under parts 9500.2180, 9500.2220, 9500.2260, or 9500.2300, the local agency shall notify the caretaker of other possible bases of eligibility, the need to file an addendum or a new application and the time limit for meeting that requirement.

Subp. 9. **Rights pending hearing.** A local agency shall not reduce, suspend, or terminate payment ~~either~~ when an aggrieved recipient requests a fair hearing prior to the effective date of the action or within ten days of the mailing of the notice, whichever is later, unless the recipient requests in writing not to receive continued assistance pending a hearing decision. A local agency may increase or reduce an assistance payment while an appeal is pending when the circumstances of the recipient change and are not related to the issue under appeal. Assistance issued pending a fair hearing is subject to recovery under part 9500.2640, subpart 3 when, as a result of the fair hearing, the commissioner finds that the ~~applicant or~~ recipient was not eligible for the assistance. The commissioner's order is binding on a local agency and shall be implemented subject to Minnesota Statutes, section 256.045, subdivision 7. No additional notice is required to enforce the commissioner's order.

A local agency shall reimburse appellants for reasonable and necessary expenses of their attendance at the hearing, such as child care and transportation costs and for the transportation expenses of the appellant's witnesses and representatives to and from the hearing.

9500.2800 AFDC PAYMENTS FOR FUNERALS, HOUSING, AND SPECIAL NEEDS.

Subpart 1. **Payment of funeral and cemetery charges.** A local agency shall pay expenses incurred, up to a maximum of \$370, for the funeral of a person who was a recipient at the time of death, and who is survived by members of the AFDC assistance unit who remain eligible for AFDC. In addition to these expenses, the local agency shall pay the actual cemetery charges. The local agency shall not pay for funeral expenses or cemetery charges when relatives of the deceased recipient, who had a legal responsibility to support the deceased recipient, are able to pay the expenses according to Minnesota Statutes, section 256.935. When donations from third parties or payments from other sources, including payments from prepaid burials or insurance, are conditioned on use for specific items such as a cemetery lot, interment, transportation of the body, or a religious service, the local agency must not apply these donations or payments against other items which the local agency must otherwise provide under this subpart. Amounts paid by a local agency for funeral expenses or cemetery charges under this subpart are reimbursable by the commissioner and recoverable from the estate according to Minnesota Statutes, section 256.935, subdivision 1. To determine the sufficiency of an estate to pay for funeral expenses, the local agency shall consider the nature and marketability of the assets of the estate.

Subp. 6. **Household furnishings and appliances.** Items A to S specify the items and special need payment amounts for repair or replacement of household furnishings and appliances:

A recipient must not receive a special need payment for the same item more than once in a three-year period unless the payment is for repair of the item or the item needs replacement because of damage, theft, normal wear and tear, or loss. Abandonment of items during a move or change in living quarters when the recipient has failed to make reasonable attempts to retake possession does not constitute loss for this purpose. When the cost of an item is greater than the special need maximum payment, a recipient must document that he or she has other available resources which can be combined with the amount payable from special needs funds to pay for the item. A credit arrangement with the vendor which provides for immediate possession of the item satisfies this requirement, but layaway arrangements which delay the possession of an item until a recipient makes an additional payment do not. A local agency shall make payment for home furnishings and appliances by direct payment to a recipient, unless the recipient requests vendor payment or the recipient's monthly assistance payment is subject to the conditions of Code of Federal Regulations, title 45, section 234.60(a)(2). When a local agency approves a two-party or vendor payment for an item to resolve an emergency under part 9500.2820 and the quarterly special need fund appropriation becomes available before the bill for that payment is received by the local agency, payment must be made according to the conditions of the original approval for payment.

9500.2820 EMERGENCY ASSISTANCE.

Subp. 2. **Definitions.** The terms used in this part have the meanings given to them in items A to O.

I. "Family" means the persons who are part of the same household with a child. When the caretaker applying for a child is a parent, the term "family" includes that child, siblings who are or stepsiblings under the age of 21, parents and the other parent or stepparent of that child, and the spouse of the parent. When no parent is present in the household the caretaker applying for a child is not a parent, the family term "family" includes the that child, the eligible relative caretaker of that child, the spouse of that caretaker, and the spouse of a child of that caretaker who lives in that household any other children under the age of 21 for whom that caretaker or spouse would qualify as an eligible relative under part 9500.2440, subpart 7.

Subp. 5. **Application.** Any family with a child may apply for assistance. At that time, a local agency shall explain to an applicant the program's eligibility requirements, the limitation of annual eligibility, the extent of the program's coverage, other programs provided by the local agency or known by the local agency to be applicable to the family's circumstances, the availability of expedited issuance of food stamps for eligible persons, and the rights and responsibilities of an applicant for and recipient of assistance.

Subp. 12. **Limitations.** The limitations of the program are listed in items A to G.

G. A local agency may deny assistance to prevent eviction from rented or leased shelter of an otherwise eligible applicant when the local agency determines that an applicant's anticipated income will not cover continued payment of shelter and utility expenses, subject to the conditions in subitems (1) to (3).

Subp. 15. **Termination of utility service.** Assistance payments must be made when an otherwise eligible family has had a termination or is threatened with a termination of municipal water and sewer service, electric, gas, or heating fuel service, or lacks wood when that is the heating source, subject to the conditions of items A and B.

B. A local agency must not issue assistance for utility costs for an applicant who:

(1) effective ~~August~~ October 1, 1986, and thereafter, paid less than four percent of the family's gross income toward utility costs due during the utility budget period or while the application is pending;

(2) effective ~~August~~ October 1, 1987, and thereafter, paid less than six percent of the family's gross income toward utility costs due during the utility budget period or while the application is pending; and

(3) effective ~~August~~ October 1, 1988, and thereafter, paid less than eight percent of the family's gross income toward utility costs due during the utility budget period or while the application is pending.

Subp. 16. **Amounts of payment.** A local agency shall issue assistance for utility costs in an amount that is dependent upon the percent of the family's gross income paid toward utility costs and the percent of the total utility costs paid before the issuance of assistance. A local agency shall determine those amounts according to items A to E.

A. Payment of the balance owed to a utility provider must be paid in full for an applicant who:

(1) effective ~~August~~ October 1, 1986, and thereafter, paid no less than eight percent of the family's gross income toward utility costs due during the utility budget period or while the application is pending;

(2) effective ~~August~~ October 1, 1987, and thereafter, paid no less than 12 percent of the family's gross income toward utility costs due during the utility budget period or while the application is pending; and

(3) effective ~~August~~ October 1, 1988, and thereafter, paid no less than 16 percent of the family's gross income toward utility costs due during the utility budget period or while the application is pending.

B. Payment on the balance owed to a utility provider must be limited to the amounts under item C for an applicant who:

(1) effective ~~August~~ October 1, 1986, and thereafter, paid at least four percent and less than eight percent of gross income toward utility costs due during the utility budget period or while the application is pending;

(2) effective ~~August~~ October 1, 1987, and thereafter, paid at least six percent and less than 12 percent of gross income toward utility costs due during the utility budget period or while the application is pending; and

(3) effective ~~August~~ October 1, 1988, and thereafter, paid at least eight percent and less than 16 percent of gross income toward utility costs due during the utility budget period or while the application is pending.

Subp. 17. **Mortgage and contract for deed arrearages.** A local agency shall issue assistance for mortgage or contract for deed arrearages on behalf of an otherwise eligible applicant according to items A to H.

E. To be eligible for assistance for the costs in item D which are outstanding at the time of foreclosure, an applicant must have paid at least 30 percent of the family's gross income toward these costs in the month of application and the 11-month period immediately preceding the month of application. When an applicant has received assistance on or after October 1, 1986, for a prior foreclosure action, the applicant must have paid at least 40 percent of the family's gross income toward these costs in the month of application and the 11-month period immediately preceding the month of application. ~~Assistance for mortgage foreclosures is limited to two occurrences except that assistance issued before August 1, 1986, must not count as an occurrence.~~

This rule is effective October 1, 1986.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

Secretary of State

Adopted Permanent Rule Governing Additional Proof of Residence

The rule proposed and published at *State Register*, Volume 10, Number 44, pages 2231-2234, April 28, 1986 (10 S.R. 2231) is adopted with the following modifications:

Rule as Adopted

8200.5100 REGISTRATION AT PRECINCT ONLY.

Subp. 2. **Optional Additional proof of residence allowed.** ~~In a precinct including student housing, the county auditor may provide that~~ An eligible voter may also prove residence by presenting a current valid photo identification issued by a postsecondary educational institution in Minnesota if the voter's name, student identification number (if available), and address within the precinct appear on a current list of persons residing in the institution's housing certified to the county auditor by the educational institution.

This ~~optional~~ additional proof of residence must not be allowed unless the educational institution submits to the county auditor no later than 60 days prior to the election a written agreement that the educational institution will certify for use at the election accurate updated lists of persons residing in housing owned, operated, leased, or otherwise controlled by the institution. A written agreement is effective for the election and all subsequent elections held in that calendar year.

The additional proof of residence must be allowed on an equal basis for voters resident in housing of any postsecondary education institution within the county, if lists certified by the institution meet the requirements of this part.

An updated list must be certified to the county auditor no earlier than 20 days prior to each election. The certification must be dated and signed by the chief officer or designee of the institution and must state that the list is current and accurate and includes only the names of persons residing as of the date of the certification in housing controlled by the institution.

The auditor shall instruct the election judges of the precinct in procedures for use of the list in conjunction with photo identification. The auditor shall supply a list to the election judges with the election supplies for the precinct.

The auditor shall notify all postsecondary educational institutions in the county of the provisions of this subpart.

EMERGENCY RULES

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

(Emergency rules published in this issue)

HEALTH DEPARTMENT

4655.5610 (proposed emergency) 219

Department of Health

Proposed Emergency Rules Relating to Minimum Nursing Staff Requirements in Nursing Homes

Notice of Proposed Adoption of an Emergency Rule and Order for Publication

Notice is hereby given that the Minnesota Department of Health proposes to adopt the above-entitled emergency rule. The statutory authority to adopt this rule is contained in Minnesota Statutes, section 256B.431, subd. 6. In accordance with the agency's rule-making authority, the agency is following the procedures set forth in Minnesota Statutes, sections 14.29 to 14.36 in effect on March 1, 1984. If adopted this rule will have the force and effect of law until June 30, 1987.

All persons have 20 days after publication to submit in writing data and views on this proposed emergency rule. Comments and materials should be submitted to Robert Eelkema, Minnesota Department of Health, Health Resources Division, 717 S.E. Delaware Street, P.O. Box 9441, Minneapolis, MN 55440. Telephone number: (612)623-5424.

The proposed emergency rule sets a minimum nursing staff requirement for nursing homes participating in the medical assistant program. This staffing requirement is based on data used in the implementation of the case mix reimbursement system.

A free copy of this proposed emergency rule is available by contacting Mr. Eelkema at the address listed above.

This proposed emergency rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

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EMERGENCY RULES

Upon adoption of the emergency rule by the Department, the rule as adopted and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Mr. Eelkema at the address listed above. Failure of the Attorney General to approve or disapprove this rule within five working days is approval. See Minnesota Statute section 14.33 (1982).

In accordance with Minnesota Statutes section 256B.431, subd. 6, this emergency rule will be effective five days after publication in the *State Register*.

Adoption of this rule will not require expenditure of public moneys by local public bodies.

Promulgation of this rule is exempt from the requirements of Minnesota Statutes, section 14.115, by virtue of subd. 7, items (a) and (c) of that law.

IT IS HEREBY ORDERED that this Notice and the proposed Minnesota Rules 4655.5610 [EMERGENCY] be published in the *State Register* and mailed to all persons on the agency's mailing list.

Rules as Proposed (all new material)

4655.5610 [Emergency] NURSING STAFF IN NURSING HOMES PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM.

Subpart 1. **Application.** Notwithstanding the provisions of part 4655.5600, on and after October 1, 1986, the staffing standard in this part shall apply to nursing homes participating in the medical assistance program.

Subp. 2. **Requirements for staff.** The nursing home shall have on duty at all times a sufficient number of qualified nursing personnel including registered nurses, licensed practical nurses, nurse aides, and orderlies to meet the needs of the patients on all nurses' stations, on all floors, and in all buildings if more than one building is involved. This includes relief duty, weekends, and vacation replacements.

The nursing staff shall be employed and used for nursing duties only. There shall be sufficient additional staff for housekeeping, dietary, laundry, and maintenance duties and these persons shall not be used to give nursing care.

Subp. 3. **Minimum nursing staff requirement.** The minimum number of hours of nursing personnel to be provided in a nursing home shall be the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day.

For purposes of this part "hours of nursing personnel" means the paid, on-duty, productive nursing hours of all nurses and nursing assistants, calculated on the basis of any given 24-hour period. "Productive nursing hours" means all on-duty hours during which nurses and nursing assistants are engaged in nursing duties. Examples of nursing duties may be found in parts 4655.5900, 4655.6100, and 4655.6400. Not included are vacations, holidays, sick leave, in-service classroom training, or lunches. Also not included are the nonproductive nursing hours of the in-service training director. In homes with more than 60 licensed beds, the hours of the director of nursing are excluded.

For purposes of this part, "standardized resident days" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as found in part 9549.0059, subpart 2, calculated on the basis of a facility's census for any given day.

Calculation of nursing hours per standardized resident day shall be performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for that same period.

Subp. 4. **Additional nursing staff.** In addition to the minimum nursing staff required in subpart 3, the nursing home shall provide additional qualified nursing staff commensurate with the needs of the patients.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Board of Animal Health

Notice of Quarterly Board Meeting

A Quarterly Meeting of the Board of Animal Health has been scheduled for Friday, September 5, 1986, at the Hilltop Restaurant, East Highway 55, Painesville, Minnesota.

Information about this meeting may be obtained by calling the Board office at 612-296-5000.

Dr. Thomas J. Hagerty
Executive Secretary

Department of Commerce

Notice of Activation of Minnesota Joint Underwriting Association to Insure Specified Classes of Business and Public Hearing

Notice is hereby given that, pursuant to Minnesota Statutes, section 621.21, the Minnesota Joint Underwriting Association (MJUA) and the Market Assistance Plan (MAP) are activated to provide assistance to the following classes of business unable to obtain insurance from private insurers:

—grain elevators

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following publication of this notice. A public hearing will be held, for the purpose of determining whether activation should continue beyond 180 days, in Room 5, State Office Building, 435 Park Street, St. Paul, Minnesota 55155, on October 28, 1986 at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard. The hearing shall be governed by Minnesota Statute Section 14.57-14.69 and by Minnesota Rules Parts 1400.5100-1400.8400, as amended (Amended Rules published at 9 S.R. 2276). Questions regarding procedure may be directed to Administrative Law Judge George Beck, 4th Floor Summit Bank Building, 310 4th Avenue South, Minneapolis, MN 55415, telephone (612) 341-7601. The authority for this proceeding is found in Chapter 455 Laws of Minnesota 1986 codified as Chapter 621 of Minnesota Statutes specifically sections 40 and 41 of Chapter 455 codified as Minnesota Statutes 621.21 and 621.22. (A copy of those sections follows this notice.)

Chapter 455 Laws of Minnesota 1986 which created the Minnesota Joint Underwriting Association provides for temporary activation for 180 days by the Commissioner of Commerce. To extend the Minnesota Joint Underwriting Association's authority beyond the 180 day period a hearing must be held. Those classes of business for which the Minnesota Joint Underwriting Association was temporarily activated, by this notice and by previously published notices, must prove, at that hearing, that they meet the statutory requirements for coverage by the Minnesota Joint Underwriting Association.

Among those requirements are:

- (1) That members of those classes are unable to obtain insurance through ordinary means;
- (2) That the insurance being sought is required by statute ordinance, or otherwise required by law, and is necessary to earn a livelihood or conduct a business; and
- (3) That the classes of business serve a public purpose.

The classes of business specified in this notice and previously published notices must be shown to meet the statutory requirements or the Minnesota Joint Underwriting Association's authority to provide coverage to them will end after 180 days from the date the notice of activation was published in the *State Register*.

The Department strongly suggests that any persons affected by this hearing or otherwise interested in the proceedings familiarize themselves with the requirements of Chapter 455 and the contested case procedures prior to the hearing, that they take such other steps as are appropriate to protect their interests and that any questions they may have as to how to proceed or how to participate at the hearing be directed to the Administrative Law Judge prior to the hearing.

All interested or affected persons will have an opportunity to participate at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in the manner set forth in the Rules pertaining to contested cases (Minnesota Rules 1400.5100-1400.8400).

OFFICIAL NOTICES

Minnesota Statutes chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statute Section 10A.01, subdivision 11 as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155 telephone (612) 296-5615.

Dated: 4 August 1986

Michael A. Hatch
Commissioner of Commerce

Sec. 40 [621.21] [ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.]

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the placement of general liability insurance coverage on Minnesota risks for a class of business, the commissioner shall by notice in the state register activate the market assistance plan and the joint underwriting association. The plan and association are activated for a period of 180 days from publication of the notice. At the same time the notice is published, the commissioner shall prepare a written petition requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary beyond the 180-day period. The hearing must be held in accordance with section 41. The commissioner by order shall deactivate a market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

Sec. 41. [621.22] [HEARING.]

Subdivision 1. [ADMINISTRATIVE LAW JUDGE.] The commissioner shall forward a copy of the petition to activate the market assistance plan and the joint underwriting association with respect to a class of business to the chief administrative law judge. The chief administrative law judge shall, within three business days of receipt of the copy of the petition, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The hearing date must be no less than 60 days nor more than 90 days from the date of receipt of the petition by the chief administrative law judge.

Subd. 2. [NOTICE.] The commissioner of commerce shall publish notice of the hearing in the State Register at least 30 days before the hearing date. The notice should be that used for rulemaking under chapter 14. Approval by the administrative law judge of the notice prior to publication is not required.

Subd. 3. [CONTESTED CASE; REPORT.] The hearing and all matters after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

Subd. 4. [DECISION.] The commissioner shall make a decision within ten days of the receipt of the administrative law judge's report.

Subd. 5. [WAIVER OR MODIFICATION.] If all parties to the proceeding agree, any of the requirements of this section may be waived or modified.

Department of Human Services, Community Social Services Division

Outside Opinion Sought Concerning Rules Related to the Allocation of Federal Dollars Received for the Title IV-E Administration and Training Program and for the Administrative Costs Incurred in Providing Social Services Under Title IV-D and Title XIX

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing to draft rules relating to the allocation of federal dollars received for the Title IV-E administration and training program and for the administrative costs incurred in providing social services under Title IV-D and Title XIX of the Social Security Act. This notice expands the scope of the notice published in the *State Register* on June 2, 1986 to include social service costs associated with Title IV-D and Title XIX funding. Authority for the promulgation of these rules is found in Minnesota Statutes, sections 256.01, subdivision 2(2); 256.011; 256B.04; subdivision 2; and 393.07, subdivisions 2 and 3.

The Minnesota Department of Human Services requests information and comments concerning the subject matter of this proposed rule. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Jane M. Delage
Rules Unit
Minnesota Department of Human Services
4th Floor, Centennial Office Building
658 Cedar St.
St. Paul, MN 55155

Oral statements and comments will be received during regular business hours over the telephone at 612/297-4302.

All statements of information and comment shall be accepted until further notice. Any written material received by the Minnesota Department of Human Services shall become part of the record in the event the rule is promulgated.

Department of Labor and Industry

Notice of Certified Prevailing Wage Rates

On August 1, 1986 the commissioner certified prevailing wage rates for commercial construction projects in the following Minnesota counties: Aitkin, Anoka, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahnommen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Roseau, St. Louis, Wadena and Wilkin.

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the Minnesota Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are \$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties the charge of \$25.00. A sales tax of 6% must be added to all orders, plus \$1.50 for postage and handling of mail orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner
Department of Labor & Industry

Metropolitan Council

Notice of Review Schedule for Draft Legislation for Supplemental Regional Park Operations and Maintenance Funds and Proposed Amendments to the Metropolitan Development Guide Recreation Open Space Policy Plan:

1. Modification of Allocations in the Fiscal Year 88-89 Biennium of the Capital Improvement Program

2. Addition of State and Federal Recreation Areas As Eligible Components of the Regional Parks System

The Metropolitan Council will undertake three major efforts with regard to its Recreation Open Space Policy Plan this fall. The

OFFICIAL NOTICES

Council is developing draft legislation regarding supplemental state funds for operating and maintaining regional parks. Ten regional park implementing agencies are involved in drafting this legislation. If the draft legislation differs from existing Council recreation open space policy, an amendment to the policy plan regarding supplemental operations and maintenance funding will also be prepared for public hearing.

The Council also proposes to make two amendments to its Recreation Open Space Policy Plan. The first will involve a modification of some of the allocations in the FY 1988-89 biennium of the Capital Improvement Program. The changes have been recommended by several regional park implementing agencies.

The second involves the addition of state and federal recreation areas as a separate classification of parks for the regional park system. State and federal recreation areas would be included in the regional park system if master plans for these areas were approved by the Council pursuant to M.S. 473.313. These park areas would then be protected from adverse land uses under the Metropolitan Land Planning Act and Metropolitan Significance Review regulations.

In accordance with Council procedures for amending regional system plans, the following tentative schedule is proposed:

September 16	Metropolitan Systems Committee approves draft amendments for public hearings and recommends public hearings date
September 25	Metropolitan Council adopts public hearing draft amendments and sets public hearings date
October 28	Public Hearings
November 13	Hearing records close
November 25	Metropolitan Systems Committee considers amendments for adoption
December 4	Metropolitan Council adopts the policy plan amendments.

A notice of public hearings will be published. If you have questions regarding the schedule or the draft documents, call Arne Stefferud of the Council's Parks and Natural Resources Division at 291-6360.

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612)296-2805. Application deadline is September 2, 1986.

ADVISORY TASK FORCE ON UNIFORM CONVEYANCING FORMS has 1 vacancy open for a member. The task force reviews all uniform conveyancing blanks; recommends new or amended forms to the Commissioner of Commerce. Members are appointed by the Commissioner. Monthly meetings at Metro Square Bldg., St. Paul, or designated site. Members receive no compensation. For specific information contact the Advisory Task Force on Uniform Conveyancing Forms, 500 Metro Square Bldg., St. Paul 55101; (612)296-5689.

MINNESOTA INDIAN SCHOLARSHIP COMMITTEE has 1 vacancy open for a member representing the American Indian post-secondary students of the Metro Area. The committee advises the Board of Education on amounts and types of scholarships granted to American Indian post-secondary students. Members also advise the Board of Education in administering the state board's duties regarding the American Indian Post-Secondary Preparation Program; reviews proposals and makes recommendations to the board on approval and funding of Post-Secondary Preparation programs in Minnesota schools. Members are appointed by the Board of Education. Members are reimbursed for expenses. For specific information contact the Minnesota Indian Scholarship Committee, 303 Capitol Square Bldg., St. Paul 55101; (612)296-6458.

MEDICAL SERVICES REVIEW BOARD has 2 vacancies open for alternate members for the following: a) 1 physician-specialty in orthopedic surgery; b) 1 chiropractor. The board advises the department on medical matters relating to workers compensation and hears appeals on decisions of the department. Members are appointed by the Commissioner of Labor and Industry. Members receive \$35 per diem plus expenses. Members must file with the Ethical Practices Board. For specific information contact the Medical Services Review Board, Dept. of Labor and Industry, Office of Public Affairs, 444 Lafayette Rd., St. Paul 55101; (612)297-4373.

TAX COURT has 1 vacancy open for a member. Members must be knowledgeable in taxation and tax laws. The tax court is maintained for taxpayers to file appeals related to any state or local tax, except special assessments. Members are appointed by the Governor and confirmed by the Senate. A full time position; members receive \$62,920 per year. For specific information contact the Tax Court, 5th Floor, Space Center Bldg., 444 Lafayette Rd., St. Paul 55101; (612)296-2806.

ADVISORY TASK FORCE ON THE WOMEN OFFENDER IN CORRECTIONS has 2 vacancies open for members. The task force consults with the Commissioner of Corrections regarding choice of model programs to receive funding. Review and make recommendations to the Commissioner on matters affecting women offenders. Identify problem areas and make recommendations for problem resolution. Assist the Commissioner when and where possible in seeking improved programming for women offenders. Members shall reflect a statewide geographical representation and are appointed by the Commissioner of Corrections. Members receive expenses in the same manner and amount as state employees. Meetings are held the 1st Wednesday of each month at the Dept. of Corrections. For specific information contact the Advisory Task Force on the Woman Offender in Corrections, Dept. of Corrections, 300 Bigelow Bldg., 450 N. Syndicate Ave., St. Paul 55104; (612)642-0340.

ADVISORY COUNCIL ON BATTERED WOMEN has 3 vacancies open for members. The council advises the Dept. of Corrections on funding for emergency shelters and programs for battered women. Members are appointed by the Commissioner of Corrections and include persons knowledgeable in the field of health, law enforcement, social services to battered women and public members. Monthly meetings. Delegate members are compensated for expenses. For specific information contact the Advisory Council on Battered Women, Dept. of Corrections, 300 Bigelow Bldg., 450 N. Syndicate Ave., St. Paul 55104; (612)642-0253.

Minnesota State Retirement System

Board of Directors, Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, August 15, 1986 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Paul L. Groschen, executive director
Minnesota State Retirement System

Department of Transportation

Petition of City of Minneapolis for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the City Council of the City of Minneapolis has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on Municipal State Aid Street 370 (Vineland Place) from Kenwood Parkway to Lyndale Avenue South.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a design speed of 25 m.p.h. instead of the required 30 m.p.h.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of County of Hennepin for a Variance from State Aid Standards for Street Width

Notice is hereby given that the County Board of the County of Hennepin has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on County State Aid Highway 52 (Hennepin Avenue) from Washington Avenue to Nicollet Island.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a street width of 83 feet with no parking instead of the required 92 feet with no parking.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

OFFICIAL NOTICES

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of County of Renville for a Variance from State Aid Standards for Street Width

Notice is hereby given that the County Board of the County of Renville has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on County State Aid Highway 29 in the city of Franklin.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9916 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a street width of 64 feet with 45° angle parking instead of the required width of 66 feet with 45° angle parking.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Richard P. Braun
Commissioner of Transportation

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration—Procurement Division

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
TODAY Magazine	August 12, 1986	State University System	Mankato	26-071-16886-0203
Teaser-Brochure	August 12, 1986	State University System	St. Cloud	26-073-19009-0386
Laundry Service	August 12, 1986	Correctional Facility	Lino Lakes	Price-Contract
AV Equip.	August 12, 1986	State University System	Marshall	26-175-06694
Unit to Test the hardness of various materials	August 12, 1986	State University System	Mankato	26-071-16880

<u>Commodity for Bid</u>	<u>Bid Closing Date at 2 pm</u>	<u>Department or Division</u>	<u>Delivery Point</u>	<u>Requisition #</u>
Radiation & Temperature Measurement System	August 12, 1986	State University System	Mankato	26-071-16893
Truck Tractors	August 12, 1986	Transportation	St. Paul	79-382-01095
Multiplexor	August 12, 1986	Administration— Telecommunications	St. Paul	02-430-52324
Refurbished Scanning Electron Microscope	August 12, 1986	State University System	St. Cloud	26-073-19045
Tungsten—Carbide Insert Snow Plow Cutting Edges	August 13, 1986	Various Trans. Districts	Various	Sch.-124-A
Class Schedules	August 13, 1986	State University System	Mankato	26-071-16946-0284
Washed Sand	August 13, 1986	Transportation	Duluth	79-100-03656
Grader Blades & Snow Plow Cutting Edges	August 13, 1986	Transportation Districts	Various	Sch.-124B
Rubbish Removal	August 13, 1986	Community College System	Lakewood	27-154-46569
Sperry Terminals	August 13, 1986	State University System	Mankato	26-071-16848
Computer Accessories	August 13, 1986	Administration—Information Mgmt. Bus.	St. Paul	02-410-51380
TI Computer Rebid	August 13, 1986	State University System	Mankato	26-071-16856
On-Site maintenance agreement on Printers & Terminals	August 13, 1986	Health	Minneapolis	12-600-95478
Heat Treated high Strength Carriage & Plow Bolts	August 14, 1986	Transportation	Various	Sch. 152
Maintenance Contract	August 14, 1986	State University System	Winona	26-074-10980
Gas Computer Emissions Analyzer	August 14, 1986	State University System	Mankato	26-071-16898
Diesel Tractor	August 14, 1986	State University System	Moorhead	26-072-09914
Disk Drive	August 14, 1986	State University System	Mankato	26-071-16894
All Risk Property & Liability Insurance	August 14, 1986	State University System	Mankato	26-071-16962
Vans	August 14, 1986	Public Safety	St. Paul	07-300-39415
Amiga Equip. Rebid	August 15, 1986	State University System	Bemidji	26-070-12010
Repair of Aluminum Posts	August 15, 1986	Transportation	St. Paul	Price-Contract
Aggregate Limestone	August 15, 1986	Community College System	Fergus Falls	27-142-48958
Riding Mower	August 18, 1986	Community College System	Fergus Falls	27-000-48959
Wire Rope	August 18, 1986	Transportation	Various	Sch. 170-C
App. & Initial Plan	August 18, 1986	Human Services	St. Paul	55-000-95112-0302
Ammunition Reloads	August 18, 1986	Law Enforcement Training Ctr.	Minneapolis	Price-Contract

Department of Human Services, Fergus Falls Regional Treatment Center

Request for Proposals for Services to Be Delivered on a Contractual Basis

Notice is hereby given that the Fergus Falls Regional Treatment Center, Department of Human Services, is seeking the following services which are to be performed as requested by the Administration of the Fergus Falls Regional Treatment Center. Contract will be written for the period July 1, 1986 through June 30, 1987.

Diagnostic x-ray services on an as-needed basis as requested by the medical staff of the Fergus Falls Regional Treatment Center for its residents. This service is to be performed in accordance with accepted professional standards and in a manner prescribed by the policies of the Fergus Falls Regional Treatment Center and the Minnesota Department of Human Services, and at times mutually agreed to by the Contractor and the Medical Director of the Fergus Falls Regional Treatment Center. The estimated amount of the contract will not exceed a total of \$17,000.00.

Bureau of Mediation Services & Public Employment Relations Board

Request for Proposals for Consultant Services

The Bureau of Mediation Services and Public Employment Relations Board wish to retain a consultant to assist in conducting a training program for interested arbitrators regarding job evaluation theories and methodologies used to implement provisions of the Minnesota Local Government Pay Equity Act. The purpose of this training effort will be to ensure a firm understanding by arbitrators of the various systems used to measure possible sex-based bias within pay plans, and the strengths and weaknesses of each evaluation technique.

It is anticipated that this training will occur as a part of a one-day conference for arbitrators to be held in October or November. Approximately two hours will be allocated to this portion of the program. The amount available for this consultant service has not been established, but is not expected to exceed \$3,000.

Individuals or firms who wish to be considered for this consultant service should submit a written request, including a suggested syllabus for such training, samples of any prior work on this subject, and a precise fee schedule, to:

Paul W. Goldberg, Director
Bureau of Mediation Services
205 Aurora Avenue
St. Paul, MN 55102

Proposals must be received by August 22, 1986, to be considered. The consultant will be selected based upon a joint determination by the Bureau of Mediation Services and the Public Employment Relations Board.

Department of Natural Resources, Division of Waters

Request for Proposals for Professional Services to Conduct a Diagnostic Study for the Restoration of Crooked Lake, Anoka County

The Department of Natural Resources (DNR) is seeking proposals for professional services to conduct a diagnostic study to determine problems and potential solutions (including costs) for the restoration of Crooked Lake in Anoka County. Responders will be required to submit a preliminary outline of their proposal.

The project is intended to run from October 1, 1986 to March 1, 1987.

Contact person:

Mr. Kent Lokkesmoe
Minnesota Department of Natural Resources
Metro Region Headquarters
1200 Warner Road
Saint Paul, Minnesota 55106
(612/296-7523)

Estimated Cost: \$10,000

Submission deadline: 4:30 p.m. September 3, 1986.

Interested persons may submit proposals to the above State contact person. The engineering consultant contractor must have experience in hydraulic, hydrologic, groundwater, nutrient analysis, soil/sediment analysis and aeration system design. This experience should be documented in the consultant's proposal.

REQUEST FOR PROPOSAL

The Department of Natural Resources (DNR) is requesting proposals for consultant work to conduct a diagnostic study for the restoration of Crooked Lake in Anoka County. The study must include investigation of current water quality problems. The consultant must be experienced in hydraulic, hydrologic, groundwater, nutrient analysis/soil/sediment analysis and aeration system design.

I. SCOPE OF PROJECT

Conduct hydraulic, hydrologic, groundwater and nutrient analysis to facilitate the restoration of Crooked Lake.

II. GOALS AND OBJECTIVES

The objective of this project is to facilitate the restoration of Crooked Lake in Anoka County.

III. PROJECT TASKS

- (1) Conduct hydrologic and hydraulic investigations
 - a) document if water supply is adequate to maintain the lake level.
- (2) Conduct water quality investigation
 - a) sediment analysis of lake bottom materials.
 - b) nutrient budget for lake.
- (3) Recommend alternatives for lake restoration including preliminary design and estimated costs
- (4) Reports
 - a) Fifteen (15) copies of the final report and plans shall be provided and one (1) camera-ready copy.

Responders may propose additional tasks or activities if they will substantially improve the results of the project.

IV. DEPARTMENT CONTACT

Prospective responders who have any questions regarding this Request for Proposal may call or write:

Kent Lokkesmoe
Minnesota Department of Natural Resources
Metro Region Headquarters
1200 Warner Road
Saint Paul, Minnesota 55106
(612/296-7523)

V. SUBMISSION OF PROPOSALS

All proposals must be sent to and received by:

Kent Lokkesmoe
Minnesota Department of Natural Resources
Metro Region Headquarters
1200 Warner Road
Saint Paul, Minnesota 55106

Proposals to be received not later than 4:30 p.m. September 3, 1986.

Late proposals will not be accepted. Submit ten (10) copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly displayed on the outside. Each copy of the proposal must be signed by an authorized member of the firm. Prices and terms of the proposals as stated must be valid for the length of the project.

VI. PROJECT COSTS

The Department has estimated that the cost of this project should not exceed \$10,000 for professional services and expenses.

VII. PROJECT COMPLETION DATE

The project will be completed by March 1, 1987 or within five (5) months from the date of project authorization.

VIII. PROPOSAL CONTENTS

The following will be considered minimum contents of the proposal:

- a) A restatement of the objectives to show or demonstrate the responder's view of the nature of the project.
- b) Identify and describe the deliverables to be provided by the responder.
- c) Outline the responder's background and experience with particular emphasis on local, state and federal government work. Identify personnel to conduct the project and detail their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the state project director or manager.
- d) Responder will prepare a cost and work plan which will identify the major tasks to be accomplished and be used as a scheduling and managing tool, as well as the basis for invoicing. Plan must include method of reporting study and final product.
- e) Identify the level of the Department's participation in the project as well as any other services to be provided by the Department.

IX. EVALUATION

All proposals received by the deadline will be evaluated by representatives of the Department of Natural Resources. In some instances, an interview will be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited to, the following:

- a) Expressed understanding of project objectives.
- b) Project work plan.
- c) Project cost detail.
- d) Qualifications of both company and personnel. Experience of project personnel will be given greater weight than that of the firm.

Evaluation and selection will be completed by September 26, 1986. Results will be sent immediately by mail to all responders.

Department of Public Service

Request for Proposals for Policy Development on Provision of Equal Access for IntraLATA Calls within Minnesota

I. INTRODUCTION

The Minnesota Department of Public Service (the Department) is soliciting proposals from qualified consultants to develop policy on the provision of equal access for intraLATA calls within Minnesota. Specifically, the Department seeks a consultant to investigate the technical aspects of the provision of equal access on an intraLATA basis statewide within the confines of Docket No. P999/CI-85-582, a proceeding established by the Minnesota Public Utilities Commission.

II. BACKGROUND INFORMATION

On October 15, 1985 in Docket P442,P443,P444,P421,P433/NA-84-212, the Minnesota Public Utilities Commission (Commission) authorized both intraLATA and interLATA toll competition within Minnesota. Presently, there is competition occurring in parts of the state for interLATA and intraLATA long distance (toll) traffic with several interexchange carriers offering service. While alternative carriers can offer their customers 1 + calling for interLATA traffic, intraLATA calls are still transported by Northwestern Bell.

The Commission has initiated an investigation into the issue of intrastate intraLATA toll access compensation. This proceeding, Docket P999/CI-85-582, will investigate the current compensation arrangement between Northwestern Bell and the other local exchange companies operating in Minnesota for the provision of intrastate intraLATA toll and access services. The current compensation arrangement uses a settlements procedure as outlined in a contract between Northwestern Bell and the independent telephone companies (the Memorandum of Understanding). Because of the Commission's decision to allow competition on an intraLATA basis a new system of compensation will be necessary.

As a part of its determination of a new compensation arrangement, the Commission is interested in the implementation of equal access statewide, specifically intraLATA.

III. QUALIFICATIONS OF RESPONDENTS

Qualified respondents must be able to demonstrate expertise in telecommunications technology, engineering and regulatory aspects of the industry. Familiarity with the engineering of Northwestern Bell's public switched network is imperative. Respondents should also have experience presenting testimony in contested cases before one or more public utility commissions in the United States or Canada.

IV. SCOPE OF THE PROJECT

A. Duration of the Project

The Department would like to begin work on this project immediately. Results of the investigation would be incorporated into testimony to be filed in P999/CI-85-582. This proceeding is a generic proceeding and is not under a statutory deadline. The consultant would be expected to participate in the case through the evidentiary hearings. Evidentiary hearings are scheduled for November 3-18, 1986 and December 1, 1986 and thereafter. The hearings are expected to last through December 19, 1986. The Department will provide a copy of the schedule of the proceeding upon request.

B. Tasks to be Performed

1. Investigate the provision of intraLATA equal access by Northwestern Bell and the other independent telephone companies in the state. Specifically, the investigation will:

- a. address the current status of intraLATA equal access in this state and in others;
- b. analyze the technical and cost factors involved in providing intraLATA equal access to all carriers;
- c. identify and analyze the network reconfiguration costs of intraLATA equal access including how and from whom such costs would be recovered;
- d. provide recommendations on whether the PUC should order mandatory provision of equal access intraLATA. If mandatory provision is necessary, provide recommendations on whether exceptions will be allowed and on what basis.
- e. analyze and provide recommendation on how intraLATA equal access can be implemented. For example, how will customers presubscribe to the intraLATA 1 + carrier of their choice?

2. The results of this investigation will be filed in reply testimony. The reply testimony will respond to Northwestern Bell and other intervenors' proposals on intraLATA equal access and present the Department's recommendations on the issue.

3. Develop and deliver rebuttal and/or surrebuttal testimony on the same issue as may be necessary.

4. Assist the Department in preparation of cross-examination of Northwestern Bell and other intervenor witnesses who will testify on the provision of equal access intraLATA.

V. PROPOSAL CONTENTS

The following will be considered minimum contents of the consultant's proposal:

A. An outline of the consultant's background and experience in conducting this type of investigation and providing expert testimony on these matters.

B. A restatement of the objectives and tasks of the project to illustrate the consultant's understanding of the proposal.

C. An identification of the consultant's personnel who will perform each task, their training and experience.

D. A detailed work plan which identifies in specific terms all the tasks to be performed with cost estimates for each.

E. Copies of recently delivered testimony or studies regarding the issues described above or similar issues.

VI. EVALUATION OF PROPOSALS

All proposals received by the deadline will be evaluated by representatives of the Department of Public Service. Factors upon which proposals will be judged include, but are not limited to, the following:

1. Lowest bid that satisfies the other requirements of this RFP.
2. Time frame and the Proposer's ability to meet the delivery schedule.
3. Relevant experience of the Proposer in telecommunications technology and engineering.
4. Procedures which Proposer intends to follow to yield high quality testimony.

Evaluation and selection will be completed by September 2, 1986. Results will be sent immediately by mail to all responders.

VII. SUBMISSION OF PROPOSALS

Responses to this request for proposal are due by August 27, 1986 and should be addressed to:

Ms. Mary T. Buley
Minnesota Department of Public Service
790 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101
612/297-3375

Late Proposals will not be accepted. The proposal must be signed by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project. Prospective responders who have questions concerning this request for proposal may call Ms. Mary T. Buley.

Under Minn. Stat. § 363.073, any proposal in excess of \$50,000 from a company who has had, during the past year, 20 or more full-time employees in Minnesota, must furnish a Certificate of Compliance from the Minnesota Department of Human Rights, or a notarized statement that the company has a Certificate of Compliance.

Departments of Public Service, Natural Resources, and Energy and Economic Development

Request for Proposals to Assist in Coordinating and Accomplishing the State's Policy of Encouraging and Promoting Alternative Energy Development through Hydropower Production

I. INTRODUCTION

The Minnesota Department of Public Service ("DPS"), the Minnesota Department of Natural Resources ("DNR"), and the Minnesota Department of Energy and Economic Development ("DEED"), hereinafter collectively referred to as the Agencies, are soliciting proposals from qualified consultants to assist them in coordinating and accomplishing the state's policy of encouraging and promoting alternative energy development through hydropower production.

II. QUALIFICATIONS OF RESPONDENTS

Qualified respondents must be able to demonstrate experience and expertise in: the repair and analysis of hydroelectric generating capability of publicly owned dams; small power production and cogeneration; project financing; minimizing conflict between resource protection and economic development; and needed legislative action.

A background in dealing with federal, state and local government processes is preferable.

III. SCOPE OF THE PROJECT

A. Duration of the Project.

The Agencies would like to begin this project immediately and continue for a period of six months.

B. Objectives of the Project.

The Agencies' objective is to encourage small power production of existing publicly owned hydroelectric facilities in compliance with state law. Minn. Stat. § 105.37-105.55 empowers the DNR to enter into contracts when there is a need to facilitate the repair and restoration of dams owned by the state and local government units and to investigate and analyze hydroelectric generating capability of publicly owned dams. Minn. Stat. § 216B.164 adopts as state policy the encouragement of small power production, including hydropower, and places the responsibility for the development and enforcement of uniform contracts with the Public Utilities Commission and, thus, the DPS. Finally, Minn. Stat. §§ 116J.05, 116J.09, 116J.26 and 116J.261 adopt as state policy the conservation of nonrenewable energy reserves and the encouragement of hydroelectric and other projects to produce low-cost alternative energy. The Department of Energy and Economic Development has responsibility for administering that policy.

C. Tasks to be Performed.

To accomplish the Agencies' objective the respondent will, at a minimum, be expected to complete the following basic tasks.

1. Review and evaluate the opportunity and need to repair and restore dams owned by the state and local government units.
2. Review and analyze small power production uniform contracts.
3. Meet with dam owners, developers, power purchasers, and government agencies to coordinate and assist in the planning and development processes for publicly owned hydroelectric facilities.
4. Assist in resolving or mitigating concerns of regulatory agencies that may arise in the review of licensing for hydro facilities.
5. Provide assistance in facilitating hydropower development. Assistance must include aid in securing financing including those offered by DEED; compliance with state rate regulatory and environmental regulations; and minimizing conflict between resource protection and economic development.

IV. PROPOSAL CONTENTS

The following will be considered the minimum contents of a consultant's proposal.

- A. An outline of the consultant's background and experience in conducting this type of analysis and the making of recommendations.
- B. A restatement of the objectives and tasks of the project to illustrate the consultants understanding of the proposal.
- C. An identification of the consultant's personnel who will perform each task, their training and experience. No change in personnel assigned to this project will be permitted without the approval of the Agencies.
- D. A work plan with cost estimates identifying tasks to be performed.

V. PROJECT COSTS

The Agencies estimate that the total cost of this project will not exceed \$15,000.

VI. SUBMISSION OF PROPOSALS

The Agencies have entered into an interagency agreement and the completion of this project will be coordinated by the DPS. Responses to this request for proposal are due by August 20, 1986 and should be addressed to:

Kenneth B. Peterson
Minnesota Department of Public Service
790 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101
612/296-7101

Late proposals will not be accepted. The proposal must be signed by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project. The Agencies reserve the right to reject any and all proposals.

VII. EVALUATION

All proposals received by the deadline will be evaluated and selection will be completed by August 22, 1986. Results will be sent immediately by mail to all responders.

STATE GRANTS

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Energy and Economic Development, Development Resources Division**Availability of Community Development Corporation Program Administration and Venture Capital Grant Funds**

Pursuant to Minnesota Statutes 116J.65 (1983 Supp) and Minnesota Rules 1983, ch. 4350, the Minnesota Department of Energy and Economic Development announces it will be accepting applications from eligible Community Development Corporations for Administration and Venture Capital grant funds. Application packets are available August 12, 1986 and the application deadline is September 30, 1986 at 4:00 p.m.

Approximately \$200,000 is available in grant funds. No minimum or maximum grant amounts have been established.

Application packages shall be available upon request from the department August 12, 1986.

All requests and inquiries should be directed to:

Patrick Connoy, Business Finance Specialist
Development Resources Division
MN Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101
612/297-1304

SUPREME COURT DECISIONS

Decisions Filed Friday, August 1, 1986

Compiled by Wayne O. Tschimperle, Clerk

C7-84-1333, C4-85-1431 Virginia Pikop, Appellant v. C4-85-1431 Burlington Northern Railroad Company and Clarence Patterson, et al., and Romesh Gulati v. C7-84-1333 Burlington Northern Railroad Company, petitioner, Appellant. Hennepin County.

The Railway Labor Act, 45 U.S.C. §§ 151-63 (1982), and the Federal Employers' Liability Act, 45 U.S.C. §§ 51-60 (1982), do not preempt a railway employee's state-law claim of intentional infliction of emotional distress where the alleged distress results not from a wrongful discharge, but from a continual pattern of harassment on the part of the railroad-employer.

Judgment reversed as to C4-85-1431; certified questions answered in the negative as to C7-84-1333. Scott, J.

Dissenting, Kelley, J.

CX-86-343 In the Matter of the Application for the Discipline of Norman Perl, an Attorney at Law of the State of Minnesota. Supreme Court.

Acting on respondent attorney's conditional admission, the court imposes a discipline of 1 year's suspension, 3 years' probation, and certain financial repayments.

Per Curiam.

Dissenting, Kelley & Wahl, JJ.

Took no part, Coyne, J.

ERRATA

COMMERCE DEPARTMENT

2742.0100-.0400 (errata) 234

Department of Commerce

Proposed Rules Relating to Coordination of Benefits for Group Health and Accident Insurance

The following text was inadvertently left out when these rules were published in the *State Register* (10 S.R. 1528) on 13 January, 1986. It was just recently brought to our attention. The missing material is underlined for emphasis by the editor and placed in context of the paragraph containing it:

2742.0300, s.4, (III) (B) (iii) c.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. This paragraph does not apply with respect to any claim determination period or plan year during which any benefits are actually paid or provided before the entity has that actual knowledge.

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MN Hazardous Waste Rules (as in effect 2-10-86). MN Rules Chapter 7045 and 7046. The rules governing the permits, storage, production and shipment of Hazardous Waste. Code #3-71. \$13.50.

Occupational Safety and Health Rules (as in effect 1-6-86). Chapters 5205-5206, 5210, 5215. State standards for safe working conditions including: personal protective equipment, walking and working surfaces, illumination and ventilation. 84 pp. Code #3-18. \$9.00.

The Medical Alley Directory. Reach the decision-makers without delay at more than 300 medical and bio-tech companies and healthcare delivery organizations. Entries include major products and/or services, company background, special interests, trade name(s), major activities, and addresses and phone numbers. (Code #40-7. \$109.00)

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* **Minnesota Rules 1985.** 10-volume set. Code #18-200. Single volumes: \$13.00 plus 78¢ tax; Full set: \$125.00 plus \$7.50 tax.

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