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STATE REGISTER



STATE OF MINNESOTA

EXECUTIVE ORDERS

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STATE CONTRACTS

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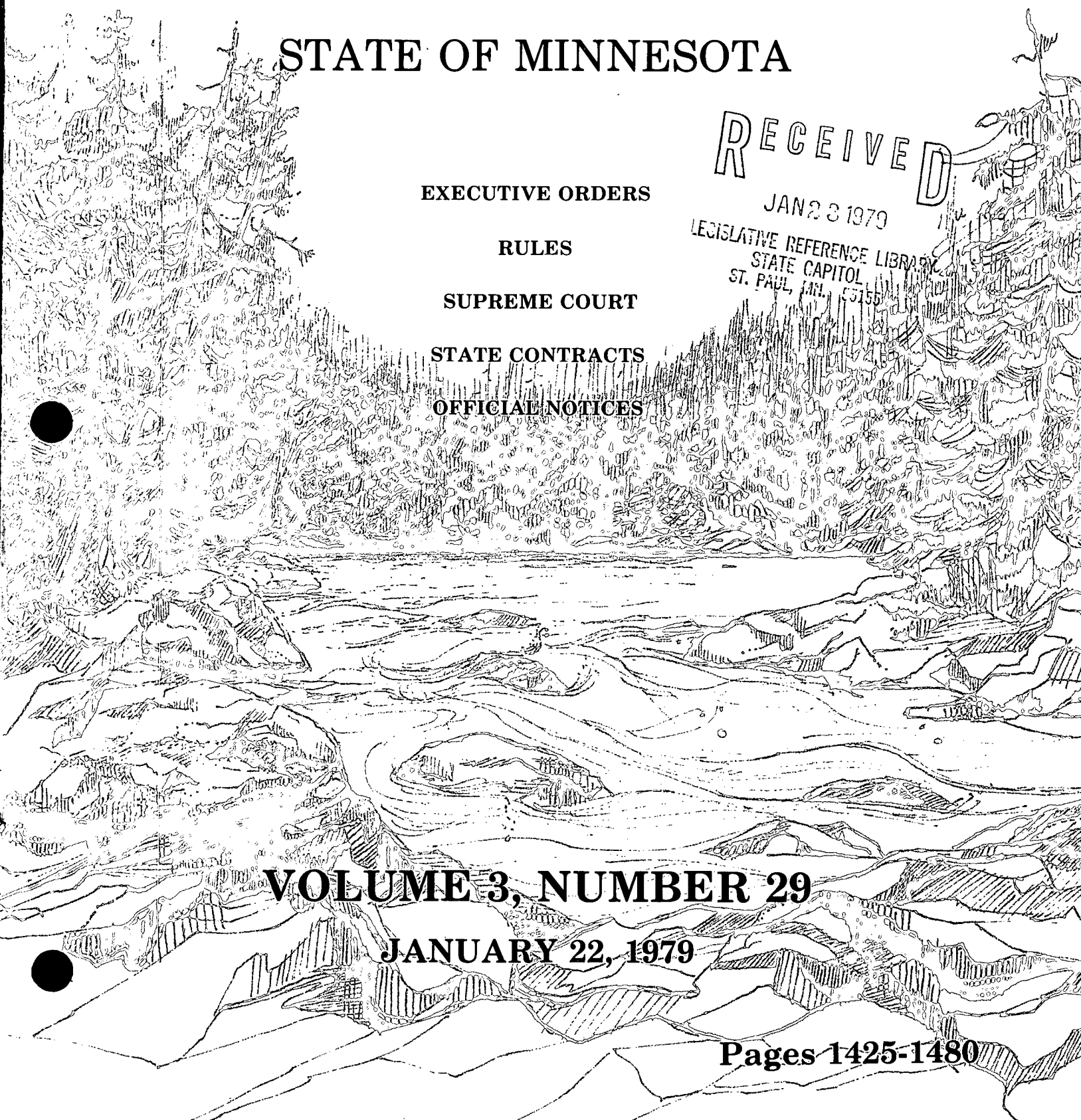
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JANUARY 22, 1979

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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
30	Monday Jan 15	Monday Jan 22	Monday Jan 29
31	Monday Jan 22	Monday Jan 29	Monday Feb 5
32	Monday Jan 29	Monday Feb 5	Monday Feb 12
33	Monday Feb 5	Monday Feb 12	Monday Feb 19

*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 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, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

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EXECUTIVE ORDERS

Executive Order No. 189

Creating the Governor's Appointments Advisory Committee

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

In order to encourage qualified persons to serve on boards and committees of state agencies; and

In order to increase the opportunities for citizens in all areas of Minnesota to serve on such boards and committees; and

In order to include women, the young, minorities, the elderly, the handicapped, and others who may not have traditionally served on such boards and committees; and

In general to encourage the participation of citizens in the setting of policies and procedures of state agencies:

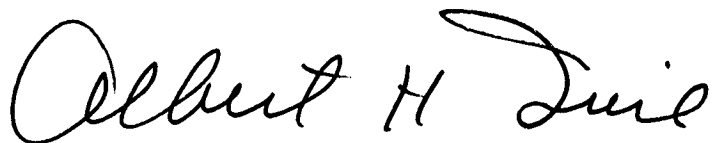
Now, therefore, I order:

1. The establishment of a Governor's Appointments Advisory Committee, consisting of not more than seventeen citizens, eight of whom shall represent their respective congressional districts. These citizens will serve a term of one year at the pleasure of the Governor and shall perform the recruitment, review, and advisory functions that will enable me to select candidates who will best serve the interests of the people of Minnesota. I will appoint these persons and select a chairperson from among the seventeen members.

2. Each congressional district representative shall, in turn, chair a local Congressional District Appointments Advisory Committee of nine persons or more. I will appoint the members of these local committees who will assist in finding qualified candidates from their geographic areas. These members will serve a term of one year at the pleasure of the Governor.

This order shall be effective fifteen days after publication in the *State Register* and shall remain in effect until rescinded by the proper authority or until superseding legislation is passed, whichever is earlier.

In testimony whereof, I hereunto set my hand on this eighth day of January, 1979.



RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *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 as proposed 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 strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Commerce Insurance Division

Adopted Temporary Rules Governing Minimum Anticipated Loss Ratios

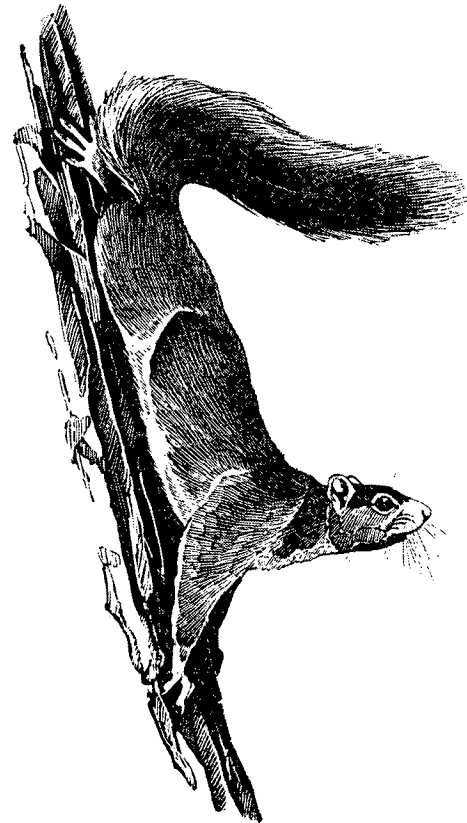
The proposed temporary rules (Ins 275-282) published at *State Register*, Volume 3, Number 21, p. 1078, November 27, 1978 (3 S.R. 1078) and at Volume 3, Number 22, p. 1204, December 4, 1978 (Errata, 3 S.R. 1204) were adopted on December 27, 1978, with the following amendments:

Ins 277 Filing requirements.

A. Each new policy form and each rate revision filing applicable to previously approved policy forms shall include an actuarial certification that the benefits provided are reasonable in relation to the premium charged and shall clearly indicate the anticipated loss ratio.

B. The actuarial certification shall include:

1. A description of the basis on which the ratio was determined;
2. A description of the calculation of the anticipated loss ratio;



The eastern gray squirrel is one of the most sought-after small game animals in Minnesota. It makes its home in tree cavities but also builds leafy nests in summer and fall. Gray squirrels feed on acorns, hazelnuts, walnuts and seeds of many trees. They may be pests in populated areas as they dig up lawns to bury acorns and may also dig up flower bulbs and chew through walls to invade attics. (Drawing by Dan Metz, courtesy of Department of Natural Resources)

3. A description of gross premiums, including the specific formula and assumptions or actuarial method used in calculating gross premiums;

4. The source of expected claim costs;

5. Identification of morbidity and mortality tables or experience studies used, sufficient explanation for evaluation of their validity, including copies of such tables if they are not currently published;

6. The experience of the insurer on similar coverages, if requested by the Commissioner;

7. First and renewal year commissions as a percent.

C. Filings for rate revisions for a previously approved policy, rider or endorsement shall also include the following:

1. A statement of the scope and reason for the revi-

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sion, and an estimate of the expected average effect on premiums for the form;

2. A statement as to whether the filing applies only to new business, only to in-force business, or to both, and the reasons therefor;

3. A history of the earned premium and incurred claims experience under existing rates the form for the most recently completed five years of experience. The history shall include; if available and appropriate, the ratios of actual claims to the claims expected according to the assumptions underlying the existing rates; substitution of actual claim run-offs for claim reserves and liabilities; determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums; accumulations of experience funds; substitution of net level policy reserves for preliminary term policy reserves; or other adjustments or schedules suited to the form and to the records of the company; further, if requested by the Commissioner the history of experience for each that form shall also include:

- a. Written premiums;
- b. Unearned premium reserves;
- c. Earned premiums;
- d. Claim payments;
- e. Claim reserves;
- f. Incurred losses;
- g. The additional reserves;
- h. Total investment income on funds available for investment less that required to maintain policy reserves;
- i. General expenses;
- j. Commission expense;
- k. Any dividends to policyholders;

1. The present number of policyholders and the number expected to lapse because of the rate increase;

m. The amount of reserve expected to be released due to any lapses;

n. Loss ratio data presented by both policy year or year of issue data as shown on a calendar year basis.

4. The dates and magnitude of each previous rate change for that form, if any;

5. ~~The present number of policyholders and the number expected to lapse because of the rate increase;~~

6. ~~The amount of reserve expected to be released due to any lapses.~~

~~D. Loss ratio data shall be presented by both policy year and calendar year duration.~~

~~E.D.~~ Insurers shall maintain records necessary to comply with Ins 277 C.3.

~~F.E.~~ In determining the credibility and appropriateness of experience data, due consideration shall be given to the following factors:

1. Statistical credibility of premiums and benefits; e.g., low exposure, low loss frequency;
2. Experienced and projected trends relative to the kind of coverage; e.g., inflation in medical expenses, economic cycles affecting disability income experience;
3. The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations;
4. The mix of business by risk classification.

Ins 279 Reasonableness of premiums in relation to benefits: group policies.

A. The benefits of a group policy or contract are presumed unreasonable in relation to the premium charged if the anticipated loss ratio of said policy does not equal or exceed 65%.

B. ~~Where the anticipated loss ratio of any group policy is equal to or greater than 65%,~~ The insurer shall be exempt from the filing requirements set forth at Ins 277; provided that the insurer files with the Commissioner a certification that the anticipated loss ratio meets the applicable minimum standard, under either 1) the appropriate group form that constitutes a contract of group insurance, or 2) the appropri-

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ate contract of group insurance consisting of a variety of approved alternative forms.

Ins 280 Refiling approved policy forms.

A. All policy forms ~~which bear an approval date prior to the effective date of these rules~~ under which the anticipated loss ratio of such form does not meet the applicable standards set forth in Ins 278 or Ins 279~~2~~, or under which the loss ratio experience indicates that the minimum ~~anticipated loss ratio~~ standards set forth in Ins 278 or Ins 279 have not been shall not be achieved; for the most recent five years of experience, shall be refiled for approval.

~~B. All new policy forms which met the requirements of INS 278A. or INS 279, when filed, under which the loss ratio experience after three years does not meet the minimum anticipated loss ratio standards of INS 278B.2.b. shall be refiled for approval.~~

Department of Health

Adopted Rules Governing Early and Periodic Health and Developmental Screening Programs

The following rules were proposed and published at *State Register*, Volume 2, Number 25, p. 1252, December 26, 1977 (2 S.R. 1252), and are now adopted with the following amendments:

Rules as Adopted

Chapter Eleven: 7 MCAR §§ 1.174-1.178

7 MCAR § 1.174 General.

A. Declaration of purpose, scope and applicability. The purpose and scope of these rules is to establish minimum standards and procedures for MDH approved nurse-administered local provision of comprehensive health screening of children.

These rules apply to those organizations seeking MDH approval in order to qualify for reimbursement by third parties for which such reimbursement requires MDH approval; and constitutes standards for the nurse-supervised Early and Periodic Screening, Diagnosis and Treatment (EPSDT) programs as prescribed in Department of Public Welfare (DPW) Rule 12 MCAR § 2.061 and Preschool Screening Program as prescribed in Department of Education (SDE) Rule 5 MCAR §§ 1.0720-1.0725.

B. Definitions. For the purposes of these rules the following terms have the meanings given them:

1. "Applicant" means a local organization, such as but not limited to a community health agency, hospital, voluntary nonprofit group or school, which is seeking approval and has submitted for approval a completed plan for an Early and Periodic Screening (EPS) program.

2. "Application" means a written request for MDH program approval in a format as specified by the MDH. This format shall require submission of the information required by Rule 7 MCAR § 1.176 A., B., C., herein.

3. "Approved program" means a screening program which offers regularly scheduled comprehensive health screening for children from birth through 20 years of age, in accordance with the standards contained in Rule 7 MCAR § 1.175, and which has been approved by MDH.

4. "Children" means those individuals from birth through 20 years of age.

5. "Diagnosis" means the systematic classification of the nature or the cause of physical or mental disease or abnormality through the combined use of health history, physical, developmental and psychological assessments and laboratory tests and x-rays.

6. "Early" means the entrance of a child to the health care system at his/her youngest possible age.

7. "EPS" means Early and Periodic Screening.

~~8. "EPS Procedures Manual" (1977 Edition) means the document written by MDH staff in which the concepts and method for program administration and screening procedures are specified and can be promulgated and utilized by local health programs. The screening procedures and referral criteria contained in the Manual are based on Academy of Pediatrics standards and specific scientific criteria for a given test.~~

~~8. 9.~~ "EPS trained nurse" means the nurse who is trained to perform the screening assessments and tests in an approved program inasmuch as she meets the qualifications as contained in Rule 7 MCAR § 1.175 B.1.b.

~~9. 10.~~ "MDH" means the Minnesota Department of Health.

~~10. 11.~~ "Periodic" means health screening occurring at predetermined intervals.

~~11. 12.~~ "Periodicity schedule" means the schedule set out in Rule 7 MCAR § 1.175 A.3., and which specifies

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the frequency and age ranges at which the specified screening assessments and tests are to be administered to a child.

12. ~~43.~~ "Physician Integration Plan" means the option whereby an MDH approved program seeks to extend its services by substituting a physician-administered health history, physical examination and laboratory services, and immunizations for the nurse-administered health history, physical assessment and laboratory services.

13. ~~44.~~ "Preschool Screening Program" means the health and developmental screening program under the auspices of the Department of Education, whereby children are screened once before they enter kindergarten, pursuant to Minnesota Laws 1977, Chapter 437, Statutes § 123.701 et seq.

14. ~~45.~~ "Screening" means the use of those simple and quick procedures as outlined in Rule 7 MCAR § 1.175 A.2. to sort out apparently well children from those in need of more definitive study of possible physical or developmental problems.

15. ~~46.~~ "EPSDT Invoice" ~~"Screening and referral form"~~ means a report when completed by approved programs and submitted to MDH provides a summary of results of screening for each child and contains data which can be used for MDH and local program analysis and evaluation pursuant to Rule 7 MCAR § 1.178 E.

16. ~~47.~~ "Sliding fee scale" means a predetermined schedule which identifies the amount to be paid by the parent(s) or guardian(s) toward the cost of screening. The sliding fee scale is developed by the applicant or approved program and is based on such factors as average incomes for the region, individual family income and the number of persons in the family.

17. ~~48.~~ "Third party reimbursement" means payment to approved programs, by sources other than the child, or his/her parent(s) or guardian(s) and which is applied to the cost of screening. The sources of this reimbursement may include Title XIX (Medical Assistance), other federal, state or local monies, insurance benefits or in-kind contributions converted into dollar equivalency.

18. ~~49.~~ "Title XIX (Medical Assistance)" means the program authorized under the Social Security Act, USC 42, Title XIX — Sec. 1901-1910, and rules promulgated thereunder, to provide medical care for individuals whose resources do not enable them to purchase such care.

19. ~~20.~~ "Tracking" means documenting the results of diagnosis and treatment resulting from the screening of a child. This data also may be used to evaluate the type and appropriateness of referrals.

20. ~~21.~~ "Treatment" means medical, dental, nursing, preventive, rehabilitative or other relevant services to prevent, correct, or ameliorate disease or disability detected by diagnostic services for a qualified professional.

7 MCAR § 1.175 Minimum standards to qualify for MDH approval.

A. Applicants seeking MDH program approval shall develop a screening program containing the following components:

1. An outreach component which shall include a demonstrated ability to stimulate or encourage participation in the screening program.

a. Information about a screening program may be disseminated by a variety of methods such as the following:

(1) Person-to-person communication.

(2) Public information outreach such as, but not limited to, planned meetings with groups, contacts with agencies such as schools or Head Start, in order to obtain assistance with regard to their specific child populations, distribution of pamphlets, use of the mass media.

b. Outreach efforts shall be coordinated with the outreach function of local welfare departments in relation to children under the Title XIX (Medical Assistance) Program and with local school districts in relation to children under the Preschool Screening Program.

2. A screening component which shall include a demonstrable ability to provide at least the following assessments and tests which must be available at the frequency and age ranges as specified in the Periodicity Schedule found in Rule 7 MCAR § 1.175 A.3. ~~Referrals resulting from the assessment and testing shall be based on referral criteria as stated in 1977 EPS Procedures Manual.~~

a. A health history assessment which shall include at least an individual review of past and present health status including perinatal, psychosocial and family health.

b. An immunization assessment which shall include a review of the immunization status of the child in relation

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to the following immunizations: diphtheria, pertussis, tetanus, polio, measles, mumps, rubella.¹

c. A nutrition status assessment which shall include at least a review of the child's food intake for a 24-hour period preceding screening.

d. A physical growth assessment which shall include measurement of the child's height, weight, and head circumference and comparison with the ranges considered normal for children of that age.

e. An unclothed physical assessment which shall include an inspection of pulse, respiration, blood pressure, head, eyes, ears, nose, pharynx, neck, chest, heart, lungs, genitals, abdomen, spine, extremities, joints, muscle tone, skin and neurologic reaction.

f. A dental inspection which shall include inspection of the child's mouth for any evident oral or dental abnormalities.

g. Developmental screening tests which shall assess the child's development in the areas of fine and gross motor skills, speech and language, social-emotional behavior and self-help skills.

(1) In order to assess these developmental areas, MDH recommends the use of the Denver Prescreening Developmental Questionnaire (PDQ) ~~with its manual~~ and the Denver Developmental Screening Test (DDST) with its manual or an acceptable alternative meeting the criteria of Rule 7 MCAR § A.2.g.2.

(2) Alternative tests ~~may be substituted for the Denver Developmental Screening Test (DDST) upon approval by MDH.~~ shall be approved as substitutes for the Denver Developmental Screening Test (DDST) provided the following criteria in (a)(b) herein are fulfilled:

(a) An applicant considering substitution for the Denver Prescreening Developmental Questionnaire (PDQ) and the Denver Developmental Screening Test (DDST) shall submit a narrative which describes the alternative test in the following areas: content and construction of the test, norms, administration, scoring and interpretation, validity and reliability.

(b) In order to secure approval of an alternative test, such a test must be standardized and able to provide at a minimum:

¹It is recommended that approved programs provide immunizations on site.

¹It is recommended that approved programs provide immunizations on site.

(i) Written procedures for administration and scoring.

(ii) Evidence of validated norms for age range being tested.

(iii) The same information regarding the child's development as would be provided through the use of the Denver Developmental Screening Test (DDST).

h. A hearing assessment shall include procedures which test for deviations from the normal range of auditory acuity.

(1) MDH approved programs must use the puretone audiometric screening procedure. A Verbal Auditory Screening for Children (VASC) hearing procedure as described in the 1977 Edition of VASC Manual, Fortunate Fours: Preschool Medical Survey of Vision and Hearing, may be used for four-year-old children.

i. A vision assessment shall include procedures which test for eye health deviations, including the normal range of visual acuity and muscle balance in the child. Approved programs must:

(1) Observe and examine the child's pupils and light following reflex, presence or absence of nystagmus, muscle balance, and an ~~external~~ inspection of the eyes.

(2) Muscle balance screening procedures include at least observation, cover test, Hirschberg Test, ~~and the Worth 4-Dot Test.~~ The Worth 4-Dot may be used for children age five or over who are cooperative.

(3) Test for visual acuity. A test, as appropriate for the child's age, such as the Screening Test for Young Children and Retardates (STYCAR), the Snellen E Cube, the Snellen E Chart, and the Plus Lenses shall be used.

j. Laboratory tests: The following tests shall be administered according to the Periodicity Schedule found in Rule 7 MCAR § 1.175 A.3.

~~(1) Tuberculin tests indicate exposure to active tuberculosis and may indicate need for medication.~~

~~(1) (2) Urine and bacteriuria (Bililabstix and Culture Assay) test for bacteria and other abnormal substances in the urine.~~

~~(2) (3) Anemia (Microhematocrit, Hemoglobin) tests. for anemia and also indicates other blood abnormalities.~~

~~(3) (4) A Blood Lead test for increased lead absorption and for lead poisoning in children whose history~~

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indicates the possibility of exposure to undue levels of lead in the environment or atmosphere.

(4) ~~(5)~~ A Sickle Cell test shall be administered only with the consent of the parent(s), or guardian(s), or the

child, if he/she is over 18 years, and only to those children at risk for the sickle cell trait or disease.

3. The assessment and tests listed above shall be available on the following periodic schedule.

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EPS PERIODICITY CHART

INTERVALS (1)	MONTHS					YEARS					
	6-7	8-11	12-15	16-19	20-35	3-4	5-7	8-10	11-13	14-17	18-21
History											
Health	X	X	X	X	X	X	X	X	X	X	X
Perinatal	X	←	←	←	←	←					
Psychosocial	X	X	X	X	X	X	X	X	X	X	X
Nutrition	X	X	X	X	X	X	X	X	X	X	X
Immunization Review	X	X	X	X	←	←	X	←	←	X	←
Developmental											
DDST	X	X	←	←	←	X					
PDQ			X	X	X						
Assessment											
Height	X	X	X	X	X	X	X	X	X	X	X
Weight	X	X	X	X	X	X	X	X	X	X	X
OFC	X	X	X	X	X	←	←				
Physical Inspection	X	X	X	X	X	X	X	X	X	X	X
Oral Inspection	X	X	X	X	X	X	X	X	X	X	X
Blood Pressure						X	X	X	X	X	X
Tests											
Hearing	X	←	X	X	X	X	X	X	X	X	X
Vision	X	←	X	←	X	X	X	X	X	X	X
Urine (BiliLabstix)						X	←	←	←	←	←
* Bacteriuria (females)						X	←	X	←	←	←
Microhematocrit or Hgb.	X	←	X	←	X	X	←	←	←	X	←
Blood Lead (Only if history positive)			X	←	X	X					
Sickle Cell (Upon parental request)	X	←	←	←	←	←	←	←	←	←	←
Tuberculin		X	←	←	←	←	←	←	←	←	←

(1) The period, birth to six months, is not addressed in the program based upon the assumption that nearly all children of this age interval are receiving ongoing physical care.

*The local agency may wish to consult with the local medical society regarding use of this procedure.

← Procedure to be completed if not done at the previous visit; or on the first visit.

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4. An interpretation and parent education component which shall include discussions aimed at sharing with the family and child information collected during screening. These discussions must incorporate guidance regarding sound health practices, normal growth and development, and the clarification of any concerns on the part of the child or family. A copy of the screening results shall be given to the parents.

5. A referral component which shall include an organized system of arranging for children with problems identified through screening to be seen by an appropriate resource for evaluation, diagnosis or treatment. Arrangements shall be made to establish all children who have been screened with on-going health care services. Whenever a child identifies a personal physician, that person shall be notified of the referral.

6. A follow-up component which shall include an organized system for securing information on children who are referred to another resource for evaluation, diagnosis and treatment. Follow-up efforts are to assure that the required services were made available and to evaluate the effectiveness of the screening program.

a. A follow-up plan shall consist of at least the following:

(1) Written and formal arrangements with other agencies such as the county welfare departments, Head Start, Developmental Achievement Centers, community action councils, public health nursing services, and school services to define and coordinate each agency's responsibilities with respect to follow-up.

(2) A description of activities such as personal contact with the child, family or referral resource. At least two attempts shall be made to contact parent(s) or provider(s) concerning diagnosis and treatment results.

(3) A written identification of nursing personnel who shall have supervisory responsibility for follow-up.

B. Personnel for EPS screening of children.

1. Qualifications and/or responsibilities of the screening personnel. An individual may perform one or more of the functions in the screening program provided that the appropriate qualifications are met. The use of volunteers is encouraged in the screening program, providing they meet the qualifications as defined in § 1.175 B.1.a.-f.

a. EPS clinic coordinator shall have the responsibility for coordination and management of the local screening program. These responsibilities include management as well as specific organization of activity in the clinics.

b. EPS trained nurse shall be either a ~~Pediatric Nurse Associate who is a graduate of an accredited university postgraduate program in Pediatric Nursing~~ or meet all of the following criteria:

(1) Be currently licensed as a professional nurse by the Minnesota Board of Nursing.

(2) Have successfully completed EPS training seminars provided by MDH, or have participated in equivalent training programs designated by MDH.

(3) Demonstrate ability to satisfactorily perform to an EPS Consultant designated by MDH, those child assessments as required in Rule 7 MCAR § 1.175 A.2.a.-j.

~~(4) Have the ability to work effectively with children based on recommendations from the EPS clinic coordinator, agency nurse supervisor, or the EPS consultant under contract with MDH.~~

c. EPS Laboratory Assistant shall be:

(1) A lab technician or an assistant who can document training in performing the specific tests used in the screening session under the supervision of the EPS nurse.

d. EPS Vision and Hearing Technician shall:

(1) Have documentation of the successful completion of a course in vision and hearing screening offered by MDH and demonstrate ability to satisfactorily perform the vision and hearing screening as required in Rule 7 MCAR § 1.175 A.2.h.-i. and;

(2) If the VASC is used, have documentation of the completion of training to perform the Verbal Auditory Screening of Children (VASC).

e. EPS Clinic Assistant shall:

(1) Be able to document the completion of training in the administration of the developmental tests selected for use in the screening program. Such training may be provided by the EPS nurse or consultant who has documented training in developmental testing from institu-

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tions such as, but not limited to area mental health centers, or community colleges and schools.

(2) Have experience in working with children either through paid employment or volunteer activity.

~~f. EPS clerk shall have responsibility for clerical and receptionist functions and shall have acquired clerical and human relations skills through paid employment or voluntary activity.~~

C. The physical facility shall meet the following requirements:

1. Separate areas shall be provided for the various screening procedures, as well as waiting and play areas. As appropriate, areas shall be provided for screening procedures, waiting, and play areas.

2. Physical privacy shall be maintained for interviewing and physical assessment.

3. Equipment needed for the assessments and tests shall be available to the program and maintained in serviceable and reliable condition so as to insure the integrity of the tests specified in Rule 7 MCAR § 1.175 A.2.a.-j.

7 MCAR § 1.176 Application procedures for EPS program approval.

A. Local organizations shall notify MDH in writing of their intent to establish an EPS program and to apply for MDH program approval in accordance with the standards specified in these Rules. The sections of the application addressing Statement of Need, and Evaluation and Fiscal Management, shall be considered for purposes of program planning at state and local level and, if necessary, for provision of technical consultation by MDH. The section of the application relating to the Methods of Accomplishing Program Components, and Personnel shall be applicable to the approval process as defined in Rule 7 MCAR § 1.176 D.

B. Upon receipt of the letter of intent, MDH shall transmit an application and instructions to the applicant.

C. Submission of application. The applicant shall submit the completed application to MDH and to the MDH District Nursing Consultant for the district in which the applicant is located. The application shall include at least the following information.

1. A Statement of Need for EPS. The applicant shall provide a general statement of the extent of the need for this kind of preventive health service in the community to be served and includes information on the following:

a. The geographic area of the proposed program.

b. The age range and numbers of children to be served in each age group.⁺²

c. The estimate of the number of Title XIX (Medical Assistance) eligible children identified in each age group.

d. The identification of all the school districts within the geographic area of the proposed program.

e. The identification of other child and adolescent health screening programs in the area and specification of how the proposed program will coordinate with these programs.

f. The identification of existing and on-going health services in the community to prevent duplication of services and care, and how this proposed program will coordinate and utilize the existing network.

2. A description of the method of accomplishing each of the program components: outreach, screening and interpretation, education, referral and follow-up.

3. Personnel. Outline the number and type of personnel necessary to implement each component and the plans for training personnel.

4. Evaluation. Outline the methods other than those specified in this Rule, by which the applicant will evaluate its own program. Such methods may include parent surveys, and/or analysis of the use of referral resources, and numbers of children screened.

5. Fiscal Management — include the following:

a. The method for determining unit cost.

b. The plan for implementing a sliding fee scale and for collecting third-party reimbursements and a copy of the sliding fee scale except where prohibited by Minnesota Laws, 1977, Chapter 437, the Preschool Screening Act.

c. The copy of the authorization from the duly constituted authority (such as county commissioners, city councils) to charge fees for services, except as prohibited by Minnesota Laws 1977, Chapter 437, the Preschool Screening Act.

D. Review and Disposition of Application

There shall be a two-stage approval process.

1. With regard to the first stage of approval:

⁺²An applicant may elect to serve only one age group of children.

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a. Upon receipt, the application shall be reviewed by MDH staff in order to determine that it contains the information specified in Rule 7 MCAR § 1.176 C.1.-5.

b. The MDH staff shall make arrangements for the local EPS personnel to be trained in EPS seminars.

c. An initial screening session shall be scheduled by the applicant. An EPS Consultant, as designated by MDH will be assigned to the applicant for on-site consultation to assist the applicant to develop adequate skills. A subsequent consultation may be provided as necessary.

2. Provisional approval.

a. Upon completion of application, training, the initial screening session, and a satisfactory EPS consultant report, the Commissioner of Health ~~may~~ shall grant provisional approval to the applicant prior to any other screening of children by the applicant. Provisional approval by MDH shall constitute approval for purposes of other governmental agencies and their provision of third-party reimbursement.

b. In the event that MDH staff intends to recommend to the Commissioner of Health a denial of provisional approval, the staff shall notify the applicant in writing of the conditions necessary to gain approval. Technical assistance and consultation shall be offered by MDH to the applicant.

c. If following the offer of consultation and with reconsideration, MDH staff intends to recommend to the Commissioner of Health denial of provisional approval the staff shall notify the applicant at least ~~33~~ 35 days prior to the submission of the recommendation to the Commissioner of Health. If the applicant contests the proposed staff recommendation to deny provisional approval, it shall request in writing a hearing within 30 days of receipt of the proposed staff recommendation or otherwise it shall be deemed to concur with the staff recommendation. This hearing shall be conducted in accordance with the Minnesota Administrative Procedures Act and the Rules of the Office of Hearing Examiners.

3. With regard to the final stage of approval:

a. A second visit shall be made by the EPS Consultant within the first six months of the program's operation to evaluate the screening program and staff performance to assure implementation and fulfillment of the program components as specified in Rule 7 MCAR § 1.175 A., B., C.

b. The MDH staff shall make a final staff review of

the screening program. This review consists of the EPS Consultant's evaluation of the ability of program personnel to adequately perform the screening procedures as outlined in the Rule, the MDH District Nursing Consultant's evaluation of the overall program administration and a review of the application in accordance with standards as specified in Rule 7 MCAR § 1.175 A., B., C.

c. If the Commissioner of Health concurs with staff comments and recommendations, the Commissioner shall notify the applicant within 30 days of final approval.

Such approval by MDH shall constitute approval for purposes of other governmental agencies and their provision of third-party reimbursement.

d. If not in substantial compliance:

(1) The conditions necessary to gain approval shall be stated in writing by MDH staff to the applicant. Technical assistance and consultation shall be offered by MDH staff to the applicant.

(2) If following the offer of consultation and reconsideration, MDH staff intends to recommend to the Commissioner of Health a denial of final approval, the staff shall notify the applicant in writing of the reasons therefor, at least ~~33~~ 35 days prior to the submission of the recommendation to the Commissioner of Health. If the applicant contests the proposed staff recommendation to deny approval, it shall request in writing a hearing, within 30 days of the receipt of the proposed staff recommendation or otherwise, it shall be deemed to concur with the staff recommendation. This hearing shall be conducted in accordance with the Minnesota Administrative Procedures Act and the Rules of the Office of Hearing Examiners.

E. Annual reapproval.

1. An approved program shall be reviewed annually by the MDH staff to determine if approval status shall continue. Reapproval shall be based on the program's continued compliance with the standards specified in Rule 7 MCAR § 1.175 A., B., C.

2. The Commissioner of Health shall notify the program within 30 days after receipt of the staff recommendation of reapproval.

3. In the event that MDH staff intends to recommend to the Commissioner of Health a denial of reapproval, the staff shall notify the program in writing of the conditions

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necessary to gain reapproval. Technical assistance and consultation shall be offered by MDH to the program. If following the offer of consultation and with reconsideration, MDH staff intends to recommend to the Commissioner of Health denial of reapproval, the staff shall notify the program at least ~~33~~ 35 days prior to the submission of the recommendation to the Commissioner of Health. If the program contests the proposed staff recommendation to deny reapproval, it shall request in writing a hearing within 30 days of receipt of the proposed staff recommendation or otherwise it shall be deemed to concur with the staff recommendation. This hearing shall be conducted in accordance with the Minnesota Administrative Procedures Act and the Rules of the Office of Hearing Examiners.

7 MCAR § 1.177 MDH responsibilities in relation to applicants and approved programs.

A. The MDH shall provide technical assistance and consultation for the planning, implementing and administering of EPS programs and those programs seeking approval.

B. The MDH shall survey and evaluate approved programs on a periodic basis to assure compliance with the standards contained in these rules.

C. The MDH shall provide in-service EPS training seminars for local staff based upon the needs as determined jointly by approved programs and MDH staff. This training shall address at least the following areas:

1. Administration of EPS.

2. Pediatric nursing skills in relation to the specific screening assessments and tests of children.

7 MCAR § 1.178 Approved program responsibilities.

A. Approved programs shall provide EPS service in accordance with or exceeding the standards contained in these rules.

B. ~~The criteria for referral resulting from the screening tests and assessments are outlined in the 1977 EPS Procedures Manual.~~³ Approved programs shall refer children to an appropriate resource for evaluation, diagnosis and treatment. Whenever a child identifies a personal physician, that person shall be provided a copy of the screening results with the approval of the parent/guardian or emancipated child.

C. Approved programs shall assure that EPS personnel obtain continuing education in order to maintain or improve clinical skills. This training may be provided by MDH or the University of Minnesota, School of Public Health. The

³The EPS Procedures Manual is available to the public and may be obtained from the Minnesota Department of Health.

content shall relate to child ambulatory health care, screening principles and clinical skills.

D. Approved programs shall coordinate the EPS program with schools or other community child health programs and health care providers.

E. Approved programs shall participate in evaluation of their programs and submit evaluation data as requested by MDH. This data includes at least a ~~screening and referral form~~ EPSDT Invoice and forms for tracking diagnosis and treatment results. Data provided to MDH by approved programs may be summarized and the child's identity shall remain anonymous.

F. Approved program option. Approved programs may include the Physician Integration Plan, provided such a plan meets or exceeds the standards contained in these Rules. If this plan is included, the health history, physical examination and the laboratory tests shall be performed on the child, under a physician's supervision. This examination shall be performed within the previous 6 months if the child is under the age of 2, within 12 months if the child is 2 years or older, or 60 days after the provision of the other EPS screening tests (vision, hearing, and developmental). There shall be a mutual exchange of information to assure that each provider has the complete health and developmental profile of the child.

Peace Officer Standards and Training Board

Adopted Rules Governing the Selection, Training and Licensing of Peace Officers and Constables

The rules relating to the selection, training and licensing of peace officers and constables, published as proposed permanent rules at *State Register*, Volume 3, Number 2, pp. 52-58, July 17, 1978 (3 S.R. 52), are adopted as of December 29, 1978, with the following amendments:

Rules as Adopted

4 MCAR § 13.002 Construction of terms.

A. Definitions.

21. Skills Course: a course of training which minimally includes the subject areas listed in § 13.003 A.2. and which must be successfully completed by an individual to

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be eligible to be licensed. The completion of a post-secondary program and a skills course is equivalent to the completion of the basic course.

a. ~~The completion of a post-secondary program and a skills course is equivalent to the completion of the basic course.~~

4 MCAR § 13.003 Basic course.

B. Participation or continued instruction in a particular subject area enumerated in § 13.003 A. ~~may~~ shall be waived by the director upon satisfactory evidence of approved equivalent training.

C. All basic courses shall comply with the minimum requirements set forth in § 13.003 A. and shall furnish such reasonable and necessary proof to the board to verify that the provisions of § 13.003 A. are being met. Nothing in these rules shall preclude any basic course from enacting regulations which establish standards of training above the minimum requirements set forth in § 13.003 A.

~~1. Nothing in these rules shall preclude any basic course from enacting regulations which establish standards of training above the minimum requirements set forth in Section 13.003 A.~~

F. The board shall determine the reasonable number of students to be enrolled in each class of a basic course.

4 MCAR § 13.005 Certification of post-secondary programs and schools.

C. Upon receipt of a properly filed application, the board initially ~~may~~ shall grant provisional certification to a school until such time as an onsite evaluation and inspection has been completed.

4 MCAR § 13.006 Licensing of peace officers.

A. Pursuant to Minn. Stat. § 626.846, subs. 1-3(a), eligible peace officers shall be licensed by the board commencing July 1, 1978. Similarly, pursuant to Minn. Stat. § 367.41, subs. 2-5, and Minn. Stat. § 626.845, subd. 2, eligible constables shall be licensed by the board commencing ~~July 1, 1978.~~ July 1, 1979.

G. Students who successfully pass the academic portion of the peace officer licensing examination shall be eligible to enroll in a skills course. Upon successful completion of

such skills course, a student shall be eligible to take the skills portion of the licensing examination. All persons enrolled in a skills course shall successfully complete that course within six months of the date of enrollment, unless the board grants an extension for compelling reasons, such as injury or sickness.

~~1. All persons enrolled in a skills course shall successfully complete that course within six months of the date of enrollment, unless the board grants an extension for compelling reasons.~~

I. Upon successful completion of both portions of the peace officer licensing examination, a student shall be certified eligible for employment as a peace officer for a period of not more than one year. Any student who obtains employment as a peace officer shall be issued a license upon successful completion of a one-year probationary period with a single agency. Notification of successful completion of the probationary period shall be furnished to the board by the appropriate appointing authority.

~~1. Notification of successful completion of the probationary period shall be furnished to the board by the appropriate appointing authority.~~

K. Peace officer licensing examinations shall be offered at least twice a year. The board shall establish the examination schedules. Any student or peace officer seeking to take either portion of the licensing examination shall submit a written application on a form provided by the board at least 30 days prior to the date of the examination. Each application shall be accompanied by the appropriate non-refundable fee as set forth in § 13.007. Students or peace officers who fail the examination ~~may~~ shall be allowed to retake the examination two times upon furnishing to the board a renewed written application and appropriate fee; additional examinations shall be scheduled to accommodate such students and peace officers.

4 MCAR § 13.008 Peace Officer continuing education — training.

B. 2. Approval for courses and/or programs for peace officer continuing education shall be based upon their relevance to knowledge, skills and abilities needed to be a peace officer. Subject areas shall be related to those topics enumerated in 4 MCAR § 13.003 A.1. and 2.

C. The board may from time to time mandate specific courses and required minimum hours in requisite subject

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areas to insure continued protection of the public interest. Nothing contained herein shall be construed as limiting an agency from requiring or furnishing more than the number of hours of continuing education and/or training required by the board.

D. ~~This rule~~ 4 MCAR § 13.008 shall take effect July 1, 1979.

4 MCAR § 13.009 Field training. ~~Statement of purpose.~~ The board encourages and shall furnish assistance to all agencies which establish minimum requirements for field training of new peace officers.

4 MCAR § 13.010 Reimbursement program of the board.

D. Upon compliance with these rules and applicable statute, approval of the application shall be by the board or its ~~designee the executive director.~~ After the board or its ~~designee the executive director~~ has approved the reimbursement application, it shall recommend payment and promptly forward the request form through the appropriate state agencies for the disbursement of funds.

E. Disbursement of reimbursement funds by the board shall be as soon as possible after the close of board's fiscal year, and no later than 90 days from the end of the fiscal year.

4 MCAR § 13.020 New peace officers.

D. ~~Potential~~ Penalties for noncompliance with the minimum selection standards set forth in this rule include:

1. denial of entrance into the bureau basic course;
2. denial of reimbursement funds as specified in § 13.010; and
3. denial of licensure.; and
4. ~~Other appropriate remedies as provided under Minn. Stat. §§ 214.10 and 214.11.~~

Department of Public Welfare Income Maintenance Bureau

Adopted Rule Relating to the Aid to Families with Dependent Children Program

The rule published at *State Register*, Volume 2, pp. 2266-2287, June 19, 1978 (2 S.R. 2266) is adopted. The adopted rule is reprinted in its entirety including amendments from its proposed form.

Rule as Adopted

12 MCAR § 2.044 Aid to families with dependent children.

A. Introduction.

1. This rule shall govern administration of the Aid to Families with Dependent Children (AFDC) program in Minnesota. The provisions of this rule are to be read in conjunction with Title IV-A of the Federal Social Security Act, Title 45 of the Code of Federal Regulations, Minn. Stat. ch. 256, and other rules of the Department of Public Welfare pertaining to public assistance and the administration of Minnesota's state and local welfare departments. ("Local welfare department" or "agency" includes the county welfare department of those multi county welfare agencies established under Minn. Stat. § 393.01 (1974) or Minn. Stat. ch. 402). The Commissioner of Public Welfare may issue instructions, bulletins, and manuals to the local welfare agencies to clarify the provisions of this rule (DPW 44 takes precedence over such documents) and may prescribe forms and procedures to be used in administration of this program. In order to assist others in interpretation of 12 MCAR § 2.044, the Department of Public Welfare has issued, informally, an AFDC Policy Manual. The material in the Manual is not an official rule and does not have the force and effect of law.

2. The commissioner shall cooperate with the federal government and its public welfare agencies in any reasonable matter that will be necessary to qualify for AFDC. Notwithstanding any provisions of this rule, administration of the AFDC program shall be subject to changes in federal or state law. The commissioner shall notify the local welfare agencies of such changes as they occur.

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3. The AFDC program shall be administered to provide qualifying needy families with the resources necessary to sustain a reasonable subsistence compatible with decency and health, according to this rule. The AFDC program shall not be administered to deny applicants and recipients their individual and civil rights, nor to obtain or disclose information regarding them except as provided by DPW rules.

4. The commissioner shall supervise the AFDC program on a statewide basis in accordance with equitable standards for assistance and administration which shall be mandatory upon all political subdivisions.

5. ~~DPW Rule 44 (12 MCAR 2.044) incorporates federal state laws, rules and regulations pertaining to the Aid to Families with Dependent Children Program in a summarized form. Interpretation of its content shall be considered in conjunction with the state AFDC Policy Manual which details the state plan of operation.~~

B. Applications for assistance.

1. Any person may apply for AFDC to the local welfare agency in the county in which he/she resides, and the local agency shall promptly advise him/her of the program's eligibility requirements. The local agency shall provide an application form immediately upon receipt of a written or oral request for assistance. The local agency shall require a written application signed under a penalty of perjury, on a form prescribed by the state agency, by applicant himself/herself or his authorized representative, whom he/she has specified in writing, or, where the applicant is incompetent or incapacitated, by someone acting responsibly for him/her. ~~An applicant may be assisted, if he/she so desires, by an individual(s) of his/her choice whom he/she has specified in writing (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may be represented by them.~~ If the application is for AFDC-Foster Care (FC), it shall be signed in accordance with this section, except that the agency, or its designee, may also sign in lieu of the applicant, his/her authorized representative or someone acting responsibly for him/her. (See H.3. below.)

2. As soon as possible, but not later than 45 days from the date of request for assistance, the local agency shall determine the applicant's eligibility for assistance. All eligibility conditions must be met within this 45-day limit. Assistance may be issued before the eligibility process is completed, but if the applicant is found ineligible, no fed-

eral or state financial participation may be claimed for this assistance.

3. The applicant must be notified in writing that his/her application has been approved or denied, unless the applicant dies or cannot be located. If the application is denied, the recipient must be notified in writing of the reasons for denial and of his/her right to appeal.

4. Any person has the right to reapply for assistance. New applications must be taken whenever a previous application has been denied or withdrawn, or whenever a grant has been cancelled, or whenever the payee has been changed. An approved application shall be added for the purpose of adding additional eligible persons or when the payee has changed his/her name.

a. An application for AFDC received by a county must be processed as such, formally acted upon, and written notification of the disposition of the application must be provided the applicant regardless of the length of time that the applicant intends to remain a resident of that county. Until the applicant is notified in writing of the disposition of his/her application, any additional AFDC applications signed by this applicant in the same or in a different county are null and void. An applicant may voluntarily withdraw his/her application at any time.

5. Eligibility shall be redetermined at least semi-annually. When the local income maintenance unit receives information about a change in case facts, eligibility shall be reviewed within 30 days. The recipient shall furnish such correct information and reports as required by the agency to assure eligibility and payments ~~and shall report any new receipt of earned or unearned income within a ten day period.~~

6. The local agency shall verify the information contained in the application from the applicant or other persons or agencies only with the applicant's signed permission; blanket consents may be used only for groups of related agencies (such as banks, insurance agencies, etc.). If the applicant refuses to cooperate with the county agency in verifying the needed information, the application must be denied.

7. The following information shall be verified:

a. Social Security numbers of caretakers applying for or receiving assistance;

b. incapacity of a parent or unemployment of a father if such is the basis of eligibility; and

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c. the applicant's income and acknowledged property.

Any other factor of eligibility may be verified depending on circumstances of the case.

8. The income maintenance unit shall ~~make immediately refer referral the applicant/recipient~~ to the social service unit when there is reason to suspect that the home in which the relative and child requesting/receiving aid reside is unsuitable because of ~~the neglect, or abuse, or exploitation of such child or that harm or threatened harm may occur to the child.~~ sexual or physical abuse as defined in state statute.

~~This includes, but is not limited to: non-accidental physical or mental injuries; sexual abuse; negligent treatment or maltreatment, including failure to provide adequate food, clothing, or shelter, and/or evidence of money mismanagement.~~

9. Because of the complexity of the welfare system in Minnesota applicants and recipients may have someone act as an advocate to ensure that their legal, civil, and human rights are upheld; or have someone assist them in the application, redetermination, or fair hearing processes or in any other contacts with the agency. The applicant or recipient may be represented by an individual (who need not be a lawyer) of his/her choice whom he/she has specified in writing. Each local agency employee is to ensure the rights and benefits of all applicants and recipients.

10. The client shall be responsible for informing the agency within ten days of receipt or by the 5th of the following month, whichever is earlier, of changes in circumstances and/or income. Such reports shall include new sources or amounts of income. The local agency shall use this report to determine continued eligibility or the amount of assistance for the next subsequent month unless income averaging is used.

11. The local agency shall inform applicants and recipients of the availability of all programs, the benefits and limitations of each, the areas of client choice among and within programs and the results of such choices, the items concerning eligibility or payment which must be reported if they change, the time within which such reports must be made, and any other policies or actions which have a direct effect on recipients.

C. Financial responsibility of residence.

1. "Residence" or "abode" means where a person lives and intends to remain; the "county of financial responsibility" or "county of settlement" means the county which is liable for a person's public assistance.

2. Minnesota residence shall be an eligibility requirement for AFDC, but no length of residence is required. A person loses Minnesota residence when he/she leaves the state with the intent to establish a home elsewhere; evidence of intent under this rule is not simply the person's stated intentions, but includes consideration of objective criteria associated with the move (e.g., movement of possessions, rent payments, changes in voter or driver's license registrations).

3. The county of financial responsibility for an AFDC grant shall be the county wherein the dependent child is residing as of the date the application is signed. ~~This also shall apply to applications for AFDC Unborn.~~ The county of financial responsibility for an AFDC-Unborn (UF) grant shall be the county where the mother is residing at the time the application is signed. (See D.1.). The county of residence, if different from county of responsibility, shall be fiscally responsible for any erroneous payments, including payments to ineligible individuals and families which result from its decisions, failures to act, agency-caused errors or overdue eligibility redeterminations.

4. If more than one county is financially responsible for the children in one AFDC grant, the caretaker's needs shall be assigned to the county having the responsibility for the most children, or the county responsible for the oldest child if each county is responsible for the same number of children.

5. If a child moves from one county to another and continues to receive AFDC, the county of financial responsibility shall transfer to his/her county of residence when he/she has resided in that county for two calendar months, provided the child and/or his/her caretaker were not placed in such other county pursuant to a plan of treatment for health, rehabilitation, foster care, child care or training, nor as a result of a placement in any correctional plan. If the original county or court or related agencies developed a treatment plan requiring the child's and/or family's move to another county, and even if the original county did not take an application prior to the move, then the original county is still responsible for initiating and accepting applications and retains financial responsibility for the AFDC grants until the goals of the plan have been reached. If thereafter the family or child continues to reside in the second county, the latter shall not assume financial responsibility until two calendar months have elapsed subsequent to completion of the plan. Such delay in transfer of financial responsibility shall relate only to such treatment placement plans which are arranged by a local agency, court order or other governmental unit such as the Division of Vocational Rehabilitation or Probation and which became effective after July 31, 1977. The delay shall not apply to child care arrangements made by the family themselves and independent of local agency or court order. The delay will apply where the local agency, etc., arranged for plans of a parent to participate in a training plan

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for himself/herself only and he/she takes his/her children with him/her to reside near the training facility in another county. However, the county of the child's residence shall be the county which services his/her AFDC grant, whether or not it is the county of financial responsibility; moreover, whenever the county of financial responsibility and county of residence have policies which conflict, the latter shall take precedence. The county of residence must furnish the county of financial responsibility with reports of interviews and budgetary recommendations. The county of financial responsibility must establish grants in accordance with recommendations of the county of residence after review for conformity to the statutes and the rules of the state agency. If the county of financial responsibility's action is not the one recommended by the county of residence, the county of financial responsibility shall notify the county of residence of the action taken and the reason. Client eligibility shall not be affected by a change in county of residence of and by itself. Once the client has notified the current county of residence of a planned move, the current county shall immediately forward to the new county all current and permanent case record information. Within 30 calendar days the new county of residence shall interview the client and respond to any changed circumstances which affect eligibility for AFDC payment. The county shall not take a formal reapplication for the client or apply any eligibility criteria which governs only initial applications. This includes, but is not limited to, the quarters of work in unemployed fathers [see D.10.a (8)(a)] and the application of the \$30 and 1/3 disregard [see d.12.b.(8)(a)(i)]. In all situations in which a grant is being continued, as a result of a pending appeal or as an order resulting from an appeal, the county of financial responsibility shall be determined according to C.5. supra.

6. If counties disagree as to which is the county of financial responsibility, the following procedures shall apply:

a. the county of residence shall grant AFDC to the applicant (if eligible) while it refers the case to the alleged county of financial responsibility;

b. the alleged county of financial responsibility shall promptly decide if the applicant is eligible for AFDC and if it is the county of financial responsibility;

c. if the alleged county of financial responsibility denies eligibility or financial responsibility for the applicant, the county of residence may accept financial responsibility or may refer the matter to the Commissioner of Welfare;

d. the Commissioner of Welfare shall review the

matter and provide both counties with the opportunity to state their position (by formal hearing or otherwise) and decide which county is financially responsible; the commissioner's determination shall be binding on both counties unless it is appealed to and reversed by the courts according to law; and

e. the county determined to be financially responsible shall reimburse any other county for any costs the county previously paid on the grant; if eligibility is denied, the county of residence shall be responsible for costs previously paid.

D. Eligibility factors. Child status.

1. Age.

a. Children under the age of 18 are eligible for AFDC; children age 18-19 are eligible if they are full-time students attending a high school, college, university, vocational or technical training institute.

b. Unborn are eligible for AFDC during the last three months of the mother's pregnancy (as medically certified). AFDC grants for unborn are referred to as "AFDC-UB".

2. Eligible relatives.

a. Parents (natural or adoptive), grandparents, brothers, sisters, uncles, aunts, great-grandparents, great-uncles, great-aunts, nephews, nieces, and first cousins, whether of whole or half-blood and stepparents, stepbrothers, and stepsisters, and spouses of these persons even after the marriage is terminated by death or divorce, are eligible to be the caretaker of a child receiving AFDC.

b. The caretaker must meet all eligibility requirements to be included in the child's AFDC grant.

3. Physical presence in the home.

a. A child must reside in the same home with an eligible caretaker to be eligible for AFDC unless he/she has special educational needs which cannot be met by local public school district which require that he/she reside away from home. "Educational needs" for this provision is defined as a curriculum directed toward achieving a special vocational or academic goal.

b. If an emergency exists that deprives the child of the care of the relative through whom he has been receiving

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aid, temporary absences of the caretaker or the child from the home shall not defeat AFDC eligibility for a temporary period necessary to make and carry out plans for the child's continuing care and support. No absence may exceed six months and all absences of more than three months shall be referred to the commissioner for a determination of continued eligibility. If the caretaker no longer, thereafter, can provide direct care for the child(ren), conditions for continued assistance do not exist. Alternative arrangements for care of the child(ren) shall be made.

4. Guardianship of a child shall not affect AFDC eligibility, but if the child does not reside with an eligible caretaker, he/she must meet the requirements of AFDC-FC (see H.3.).

5. If a child dies (or if an unborn is stillborn), the AFDC grant shall be paid for the entire month in which death occurs.

6. Parental status. To be eligible for AFDC a child must be deprived of parental support or care due to the death, incapacity or continued absence of a parent from the home, or due to the unemployment of the father. This rule shall apply to natural and adoptive parents; the term "parental support or care" means financial maintenance, training, supervision, housekeeping and feeding normally given to children by their parents.

7. Death of a parent must be verified by official records (death certificates, military records, etc.).

8. Incapacitated parents.

a. A parent is incapacitated if he/she has a physical or mental defect, illness, or impairment which makes him/her unable to care for the child or substantially reduces or eliminates the ability to support the child. The incapacity must be expected to last at least 30 days from its onset. Budget deficiency alone shall not establish need in incapacity cases; the physical or mental handicap must cause the budget deficiency.

b. The incapacitated parent, and the caretaker relative, shall be included in the AFDC grant if need exists.

c. The incapacitated parent who is exempt from WIN registration (see H.1.) must be referred to the Department of Vocational Rehabilitation.

9. Continued absence.

a. A parent is continually absent from the home if he/she is physically absent from the home and if this absence interrupts or makes uncertain his/her ongoing parental support or care; there is no minimum time period used to establish continued absence; ~~however the applicant must~~

affirmatively establish a continued absence. The agency shall obtain, and the applicant shall provide, all available facts serving to establish a continued absence.

b. Upon an absent parent's return to the home, AFDC shall continue, if need exists, for one month following the month of his/her return.

c. Where continued absence exists:

(1) The applicant/recipient must assign to the state his/her rights to any child support which accrues or has accrued up to the amount paid, during a time when the child or other person with respect to whom support is due was a recipient of AFDC. The applicant/recipient shall assign to the State his/her rights to any support from any other person. The assigned rights shall include support owed to the applicant/recipient on his/her own behalf and support owed on behalf of any other family member whose needs are included in the AFDC grant. The assignment shall not give to the State the right to agree to a reduction in the support being assigned or to a lump sum compromise or settlement of support due in the future. The maximum amount of the assigned support that shall be retained by the State shall be an amount equal to the total assistance expenditures.

(2) The applicant/recipient must be referred to the Child Support Unit.

(3) The applicant/recipient must cooperate in establishing paternity or obtaining support.

The Child Support Unit shall not attempt to establish paternity in cases involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending if, in the opinion of the Income Maintenance Unit, it would not be in the best interest of the child.

(4) If an applicant or recipient fails to assign rights to support or to cooperate in establishing paternity or obtaining support, an AFDC grant shall be provided only for the child/children through protective or vendor payments. The needs of the caretaker shall not be deleted, nor protective or vendor payments instituted, if the caretaker demonstrates "good cause" that establishing paternity or obtaining support is not in the best interest of the child. The conditions of "good cause" as stated in federal regulations shall be applied.

10. Unemployed fathers (AFDC-UF).

a. An unemployed father is a father:

(1) whose family is in need;

(2) who is not unemployed due to a labor dispute;

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(3) who works less than 100 hours per month;

(4) who has not been fully employed for 30 days prior to the receipt of AFDC-UF;

(5) who has not refused or quit employment except for good cause, within 30 days prior to the receipt of AFDC-UF;

(6) who has not been fired from his job within 30 days prior to the receipt of AFDC-UF;

(7) who is currently registered with the local Job Service Office of the Department of Economic Security and is available for training and/or employment;

(8) who has:

(a) worked at least six quarters during any 13 calendar quarters ending within one year prior to the date of application; at least \$50 per quarter must have been earned during this period or the father must have been in an approved work-and-training program; or

(b) received or could have qualified for Unemployment Compensation during the year prior to application for AFDC-UF.

b. To refuse or quit employment or training except for good cause means that an individual refused or quit employment or training, or the offer of employment or training, which he was physically and technically able to perform, which was not excessively hazardous, for which transportation was available, and which paid the prevailing wage in the community for that type of work (but not less than the minimum wage).

c. An unemployed father and family shall be eligible to receive AFDC-UF and Unemployment Insurance concurrently, provided that the unemployed father applies for and accepts any Unemployment Insurance to which he is entitled. All Unemployment Insurance benefits received by the unemployed father must be subtracted from the amount of aid otherwise payable to the AFDC assistance unit. Ineligibility for AFDC for the whole family shall exist for any week for which the child's father qualifies for Unemployment Insurance, but refuses to apply for or accept these benefits.

d. To continue AFDC-UF eligibility in non-WIN counties, the father must re-register with the local Job Service Office of the Department of Economic Security every 30

days, and actively seek employment or enroll in a work training program or the entire family is ineligible. In WIN counties he must register for WIN (see H.1.).

e. If the father quits or refuses an offer of employment or training without good cause he shall no longer be considered registered in a non-WIN county and the entire family shall become ineligible to receive AFDC payments for so long as the father refuses a bona fide offer of employment or training. See H.1. for sanctions in WIN counties.

11. Stepparent.

a. A stepparent is a potential resource for the support of his/her stepchildren, but cannot be required to support them. If a stepparent chooses to support a stepchild, that stepchild's needs must be removed from the grant.

b. A stepparent shall be legally responsible for the support of his/her spouse; if the stepparent is unable to support the spouse (and can document that fact), the spouses's needs may be included in his/her children's AFDC grant, assuming other eligibility conditions are met. To determine if the stepparent is unable to support his/her spouse, the amount of the stepparent's income (determined in the same way that an AFDC recipient's income is determined under D.12.b.) shall be compared with the SSI payment level for one person; if the stepparent's income does not exceed this level, the spouse may be included in the AFDC grant, but any excess income shall be considered available for the support of the spouse.

12. Income and resources.

a. Property.

(1) Types of ownership. The owner of property in joint tenancy shall be considered as owning one-half of the value of such property, but the county or the joint tenant may establish legal interest of a greater or lesser amount. An owner of property as a tenant-in-common owns his/her pro rata share of the property's value. All other types of ownership shall be evaluated according to the law.

(2) Transfers of property. The transfer of real or personal property to establish or continue AFDC eligibility is contrary to public policy. Under this provision:

(a) Each AFDC applicant shall be required to disclose whether he/she has transferred any property within the last year worth more than \$500 for which a reasonable

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consideration was not received; this disclosure requirement shall apply to all AFDC recipients upon a redetermination of their eligibility.

(b) Any property so transferred is a potential resource for the applicant or recipient, and the transferor must disclose the property's description and value, the names of the transferees, and the circumstances of the transfer.

(c) The applicant or recipient must cooperate with the local agency in reasonable efforts to reacquire the property or its value; failure to cooperate in reasonable efforts to do so shall constitute grounds for termination or denial of assistance.

(d) If the property cannot be reacquired, the matter must be referred to the county attorney for possible civil and criminal prosecution; the fact of transfer in itself shall not defeat AFDC eligibility.

(3) Real estate.

(a) No AFDC recipient may own net equity in real estate used as a home ~~(or in a mobile home)~~ which exceeds \$15,000, unless the local welfare board waives such excess equity. The amount of net equity is the difference between the recipient's share of the property's market value and encumbrances on the property.

(b) No AFDC recipient may own real property not used as a home (including ~~mobile homes and~~ properties being sold for contract for deed) unless the local welfare agency determines that the property produces net income applicable to the family's needs or which the family is making a continuous effort to sell at a fair and reasonable price. To determine net income from such property, taxes and maintenance expenses (but not principal payments of costs of improvement) shall be deducted from the gross income of the property.

(c) In deciding if the property limits of D.12.a.(3)(a) of this section should be waived, the local board shall determine if such real estate is available for the support of the family or if the sale of such property would cause undue hardship. If so, then the excess shall be waived.

(d) The total real property (except for that used as a home and that which is income producing) plus all excluded and non-excluded personal property (except the earnings of a child being saved for educational needs) shall not exceed the limits established in federal regulations.

(4) Personal property.

(a) No AFDC recipient may own personal

property the value of which is more than \$300 if one child is included in the grant, or \$500 if more than one child is included in the grant.

(b) The provisions of D.12.a.(4)(a) shall not apply to household goods, furniture, clothing, burial lots, mobile homes used as a home, or personal items; the limits of D.12.a.(4)(a) may be exceeded where the excess is:

(i) derived from a child's earnings and is designated for specific educational needs of the child, and is in an amount reasonable for that need, and is held in a separate account, and/or

(ii) is designated for a specific purpose (such as real estate taxes or other large expenses), will be eliminated yearly, and does not exceed \$500, and/or

(iii) is legislatively disregarded payment (such as some Indian tribal payments); and/or

(iv) is due to an income tax refund received within the preceding three months.

(c) A recipient may build his/her personal property to limits set forth in D.12.a.(4)(a) as long as all his/her non-exempt income has been reported and counted in determining the amount of his/her grant.

(d) Income producing personal property shall be exempt from limits of D.12.a.(4)(a). This includes tools, implements (trucks, tractors), and domestic animals.

(e) One automobile, the market trade-in value of which does not exceed \$1650 shall be excluded in determining the personal property resources of all applicants/recipients. Market value shall be its current National Automobile Dealers Association (NADA) NADA trade-in value. If client disagrees with NADA value, local agency evaluation shall be used. If the market trade-in value may exceed the \$1650 limit the automobile shall be excluded if client is employed, in training for employment, actively seeking employment, temporarily unemployed due to illness or injury and has a definite plan to work or the automobile is needed to obtain necessary medical care. Medical care shall mean the person or a member of such individual's immediate family has a medically diagnosed mental or physical condition which requires continued inevitable or unavoidable medical attention.

(i) If the market trade-in value exceeds \$1650 and none of the exceptions are applicable, the automobile's equity (when added to the value of non-exempt personal property owned by the recipient) must be within the personal property limits for the family. Equity shall be NADA trade-in value minus encumbrances.

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(5) Life insurance and trust funds.

(a) A recipient unit may retain life insurance policies with total cash surrender values of not more than \$500 without defeating AFDC eligibility.

(b) A trust fund whose beneficiary is a dependent child shall be subject to the property limits of this rule unless it can be demonstrated that the fund cannot be made available for the child's support.

(6) Prepaid burials. An AFDC recipient may have a prepaid burial contract which does not exceed \$750 for each family member plus \$200 in accrued interest. The funeral director must be the trustee of any such burial contract and a recipient must be the beneficiary, or a trust account specifically designated for funeral costs may be established by the funeral director and recipient jointly.

(7) Personal property which has increased in value beyond the limits of this rule must be reported to the agency. Such property will not defeat AFDC eligibility if the applicant/recipient within 15 days of notice by the county agency:

(a) converts the excess to an excluded type of property;

(b) uses the excess to repay the county for assistance already received;

(c) use the excess to reduce his/her grant for one month; or

(d) uses the excess to meet all his/her needs for up to three months (thereby suspending his/her grant for those months).

(8) The resources of an SSI recipient shall be exempt in determining AFDC eligibility. In any family situation in which some members are eligible for AFDC and any other members are eligible for Minnesota Supplemental Aid (MSA), or General Assistance (GA), or ~~Medical Assistance (MA)~~ the property limitations in the program involved that has the least restrictive eligibility maxima will apply to the extent allowed by law.

b. Income.

(1) Generally, "income" is any benefit received by and available to an AFDC recipient as earnings or otherwise. Income may be earned or unearned. In family groups

living together, the income of a spouse shall be considered available to his/her children under age 21. All income, except non cash items provided free of cost and other items specifically disregarded in this rule, must be evaluated in determining the need of AFDC recipients. Real or personal property which has been converted to cash shall be treated within the property standards stated in part D.12.a.(4), not as newly received income. ~~New sources or amounts of income must be reported to the local welfare agency within ten days.~~

(2) Exclusions. The following income is not considered a resource for AFDC purposes:

(a) inconsequential income (amounts up to \$30 per month providing such amount is less than the grant);

(b) reimbursement for the maintenance costs incurred in providing foster care;

(c) WIN work and training allowances;

(d) non-WIN training allowances received as a social service expense;

(e) Food Stamp bonuses;

(f) Comprehensive Employment and Training Act incentive payments;

(g) home-produced foods used in the home;

(h) reimbursement for out-of-pocket expense incurred for volunteer work;

(i) corrective payments from the local agency;

(j) assistance under the Uniform Relocation Act of 1970;

(k) Indian tribal payments specifically exempted by Congress;

(l) loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(m) any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the United States Commissioner of Education;

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(n) Vietnam veteran's bonuses authorized by law;

(o) benefits under Titles VI or VII of the Older Americans Act of 1965;

(p) federal and state income tax refunds, (annual tax refunds shall not be considered available income; availability of income shall be determined at the time income is earned; determination of currently available income shall require assessment and disregard of the amount of tax obligation incurred at a given level of current monthly income; the amount withheld from wages, for various reasons, may exceed the amount of tax obligation; when the excessive amount withheld is returned in the form of a tax refund, the amount of the tax refund shall be disregarded; the availability of that income has been previously assessed);

(q) federal payments for presidentially declared disaster areas when specifically identified in federal law;

(r) volunteer payments under Title II and III of the Domestic Service Act of 1973;

(s) assistance through the National School Lunch and Child Nutrition Act amendments of 1973;

(t) allowances and expenses paid by Vocational Rehabilitation;

(u) other income disregards as mandated by federal or state law;

(v) earnings received by any youth under Title III, Part C, Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973 Public Law 93-203 is to be disregarded.

(w) Minnesota property tax credits or refunds received by a recipient who does not receive a housing allowance pursuant to Section E.3. following shall be excluded.

(3) Allocation of income.

~~(a) All income received must be reported within ten (10) days but no later than the fifth day of the month following the month of receipt. For current recipients, the local agency shall use this report to determine the amount of the grant for the next subsequent month unless income averaging is used.~~

~~(b) (a) Before applying income to need, income may be allocated from spouse to spouse and from parents to~~

children under age 21 if such person resides with the AFDC recipient and is in need.

~~(e) (b) The income and resources of an SSI recipient shall not be counted in determining the AFDC recipient's income.~~

~~(d) (c) Trust funds for a particular person or purpose shall not be allocated to the family until that person's needs or the particular purpose are met; only legally restricted trust funds shall be excluded.~~

~~(e) (d) Retirement, Survivors, and Disability Insurance (RSDI) payments are considered family income unless they are paid on behalf of a child who is excluded from the grant.~~

~~(f) (e) Income from jointly-held property shall be allocated according to the share of ownership and availability to AFDC recipients.~~

(4) Income cannot be allocated to meet past obligations. See DPW 53 (12 MCAR § 2.053).

(5) During the period of eligibility, the county may determine income and work expenses monthly or average them over a three-month period.

(6) All unexcluded unearned income and earned income minus allowable deductions must be applied against the AFDC Standard.

(7) Income averaging shall involve use of three months of income to establish assistance for three months; actual income variations shall be ignored when income averaging is used unless a significant change requires a stop in the averaging cycle. Significant changes are: A decrease in total income (disregard, available income and grant) to less than the need standard; an increase in net income which would result in ineligibility; termination of employment; The averaging also may be stopped if there is a change in net income totalling more than a \$50 difference from the average in a given month, except when the difference is due to calendar fluctuations causing receipt of an extra paycheck, and except when the agency reconciles the budget at the end of the averaging period. When income is averaged or budgeted monthly, monthly equivalent income may shall be established by one of the following methods: by multiplying weekly income by 4.3, bi-weekly income by 2.16, and semi-monthly income by 2, or by using any method resulting in an accurate reflection of total monthly income.

(8) Earned income.

(a) Generally, earned income shall include any compensation from employment or self-employment (wages, salary tips, commissions, profits, etc.), plus train-

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ing incentive payments and work allowances under the Equal Opportunity Act and Title I of the Elementary and Secondary Education Act.

(i) \$30, plus one-third of the remainder of the family's total earned income shall be disregarded unless a family member has terminated or refused employment, or reduced earned income without good cause within the preceding 30 days (in which case the disregard shall not be applied for one month to the earnings of that individual); this disregard shall not apply to income from WIN public service employment.

(ii) The earned income of a child under age 14 shall be excluded.

(iii) The earned income of a child over age 14 who is a full or part time student (but not employed full time) in a high school, college university, vocational or technical courses shall be excluded; the earnings of the student shall be considered in determining initial eligibility and afterward, excluded.

(iv) In new applications, the \$30 and 1/3 earned income disregard shall not be applied to earned income unless the applicants' needs were met, in whole or in part, by AFDC in any of the four months preceding the month of application.

(b) The following employment expenses shall be deducted in determining net earned income:

(i) federal and state income tax obligation; (the expense of employment at a given level of income is the tax obligation incurred; in determining net income which is currently available, the amount of the tax obligation incurred at current monthly income is used; the amount of monthly tax obligation is displayed on tables developed and published by the Department of Public Welfare); (at client's request, a reconciliation shall be performed to determine whether client's tax obligation for a past tax year has been understated; any understatement discovered shall be corrected by a supplementary payment to the client);

(ii) FICA and SMI payments;

(iii) child care costs unless these are paid as a social service; or paid to a relative included in the AFDC grant; or paid to a relative who is financially responsible for the family and able to contribute to it; child care costs paid to a parent may not be deducted in determining net income,

(iv) business expenses (except depreciation);

(v) personal expenses in the manner described in paragraph D.12.b.(8)(c);

(c) Personal expenses of employment shall be recognized by deducting 10% of gross income up to a maximum of \$60. If the client requests that actual expenses be recognized in lieu of the standard deductions, the following expenses shall be deducted, if incurred, necessary and reasonable;

(i) mandatory retirement fund deductions;

(ii) transportation costs to and from work based on the actual cost of public transportation or car pool payments, or 13 cents per mile for the actual number of miles driven, not to exceed 100 miles per day of employment; no fault insurance is included in the 13 cents per mile;

(iii) cost of work uniforms;

(iv) union dues;

(v) professional association dues required for employment;

(vi) health insurance premiums;

(vii) cost of tools and equipment used on the job;

(viii) one dollar per day for the cost of meals eaten during employment;

(ix) public liability insurance required by the employer when an automobile is used in employment and the cost is not compensated for by the employer.

(d) Income from small businesses is the difference between gross receipts and business costs. (Capital expenditures and depreciation are not a business cost.) Those expenses which are allowable as personal expenses of employment under D.12.b(8)(c)(i-ix) shall not be allowed as business expenses.

(e) Farm income is the difference between gross receipt (sales, rents, soil conservation payments) and operating expenses. Home-produced foods for sale are included. (Capital expenditures are not included as an operating expense.)

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(f) Income from child care in the home shall be 40% of gross receipts. The client may rebut this presumption by documenting actual business expenses in conformance with IRS Schedule "C" and the limitations in D.12.b. (8) (d), in which case income shall be gross receipts minus actual business expenses.

(g) Income from roomers and boarders is computed by allowing \$58 per month (for each boarder), \$48 per month (for each roomer), or \$105 per month (for each roomer and boarder), as the expenses of producing this income.

(h) Unearned income is not the direct result of labor performed by the recipient as an employee. Receipt of SSI shall be a bar to receipt of AFDC. Serviceperson's income shall be counted after deducting the amount needed for the serviceperson's clothing, personal needs, and transportation, but the amount deducted cannot be greater than the amount actually received by the family.

(9) Special situations.

(a) Rental income is unearned income unless there is labor expended in obtaining the income from rental property. \$69 shall be deducted per year or two percent of market value (whichever is less) for upkeep and repairs, and ~~deduct~~ taxes, insurance, utilities and interest on principal payments shall be deducted if the recipient lives on the property. Where the recipient lives on the property, these expenses shall be allocated according to the number of rooms.

(b) Unless otherwise excepted, lump sum payments and windfalls are shall be unearned income in the month received and shall be considered property thereafter.

(c) An AFDC recipient must be a U.S. citizen, an alien lawfully admitted for permanent residence, or a continuous U.S. resident since July 1948.

(d) Social Security numbers of all caretakers included in the grant must be provided to the county agency as a condition of eligibility (but assistance shall not be denied where a number has been requested from the Social Security Administration, but not received). Failure to cooperate shall result in deletion of the caretaker's needs and protective/vendor payments shall be issued for the children.

E. AFDC family allowance.

1. Standards of need.

a. The need standards set forth in this section shall be used to determine the grant for every AFDC family in Minnesota (except AFDC-FC).

b. Definitions.

(1) An "eligible person" is one who is eligible for and receives AFDC; in most circumstances it means one caretaker relative and the dependent children he/she cares for. (More than one caretaker may be included when eligibility is based on parental incapacity or unemployment of the father.) All "eligible persons" receiving one AFDC grant constitute one "recipient unit".

(2) The "children" standard shall apply to all members of a recipient unit except the caretaker or other adult.

(3) The "first adult" standard shall apply to the caretaker relative.

(4) The "second adult" standard shall apply to an adult member of the recipient unit who is in addition to the caretaker.

(5) To determine the grant amount for an eligible family, the appropriate amount for the children from the standard shall be added to the amount for an adult(s) from the standard if applicable, to arrive at the grant amount.

(6) A family composed of individuals with varying bases of eligibility but living together as a unit shall constitute one recipient unit. This does not apply when two eligible adults share shelter without a marital bond.

(7) In family groups in which there is an adult caretaker(s), a minor, and a child of the minor, the minor shall have the choice as to which way the grant shall be determined:

(a) the minor and her child may be included in the adult caretaker's grant;

(b) the minor and her child may receive a separate grant; or

(c) the minor may continue in the adults caretaker's grant and the child of the minor shall receive a separate grant.

c. Family allowance.

Eligible Persons	Children Standard		
1	171		
2	235		
3	295		
4	348	First Adult standard:	129
5	399		
6	450 451		

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7	495	Second Adult standard:	51
8	540		
9	578		
10	614		

Each person
above 10 add 37

d. Amount of grant. The amount of the AFDC grant for a recipient unit is the difference between the standard of need as determined by the above table and the recipients' non-exempt, non-disregarded income (see D.12.b.).

2. Special need items. The local agency shall provide funds for certain special needs of AFDC recipients as specified below. Allowances for these items shall receive prior authorization from the local agency. The payment shall be issued directly to the recipient, unless he/she elects to sign a request to have payment issued directly to the vendor.

a. Major home repairs. The local agency shall provide payment for costs of major home repairs if the home is owned and lived in by the recipient; if the need for repair is established documented to the local agency's satisfaction; and the home is owned and lived in by the recipient. if such expenditures are within reasonable limits in relation to overall condition of dwelling and available alternative housing. Major home repairs allowed as special need items shall include repairs to the home's roof, foundation, wiring, heating system, chimney, and plumbing. The recipient shall provide the local agency with a vendor's written estimate for repairs and the agency may require up to two additional estimates when it deems the first estimate excessive. There shall be no maximum allowance established for major home repairs.

b. Replacement or repair of essential major appliances and household furnishings. Costs up to agency maximums for replacement or repair of essential major appliances and household furnishings shall be authorized if the need for such replacement or repair is established to the local agency's satisfaction and any existing rental agreement does not establish that such item, in good repair, is to be provided by landlord/lessor. The local agency shall inform the recipient of the maximum agency allowance for the item and the recipient's free choice to apply such allowance to either repair or replacement of the item. If the recipient elects to repair a major appliance, he/she shall provide the local agency with a vendor's written estimate for repairs. The local agency may require up to two additional estimates when it deems the first estimate excessive. The recipient may supplement the agency's maximum allowance if he/she so chooses.

(1) Major household appliances repair/replacement. Major household appliances covered and agency maximum allowances shall be as follows:

<u>Item</u>	<u>Maximum</u>
Cooking Stove or Range	\$ 55.00
Refrigerator	\$ 64.00
Washing Machine	\$ 64.00
Dryer	\$ 64.00
Water	\$128.00

(2) Household furnishings repair/replacement. Essential household furnishings covered and agency maximum allowances shall be as follows:

<u>Item</u>	<u>Maximum</u>
Kitchen Table	\$ 17.00
Kitchen Chair	\$ 7.00
Couch	\$ 51.00
Living Room Chair	\$ 17.00
Lamp	\$ 9.00
Chest of Drawers	\$ 18.00
Crib and Mattress	\$ 34.00
High Chair	\$ 11.00
Living Room Table	\$ 7.00
Bed, Full Size (complete)	\$ 81.00
Mattress or Box Spring (only)	\$ 34.00
Frame (only)	\$ 13.00
Bed, Twin Size (complete)	\$ 51.00
Mattress or Box Spring (only)	\$ 19.00
Frame (only)	\$ 13.00
Bedding (includes blanket, pillow and case, sheets)	\$ 14.00

c. Medically prescribed diets. Costs for medically prescribed diets shall be authorized if they are prescribed by a physician and add expense to a normal diet. The following diets shall not be authorized: diets which are paid for by the Medical Assistance Program, reducing or low caloric diets (1800 calories or less), sodium restricted diets (100 mg sodium), diabetic diets (1800 calories or less), fat controlled diets (55 mg. fat or less) and bladder, ulcer, low residue or low fiber diets which prescribe only soft food or prescribe special food preparation.

d. State appropriation. Each quarter the state appropriation for special needs shall be allocated among the local

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agencies on the basis of caseloads. Unused funds shall be reallocated at the end of the fiscal year.

3. Housing Allowance. An AFDC allowance for a portion of housing costs attributable to the local property tax will be provided to individuals who have not received such payment under the Minnesota Property Tax Refund Act. The amount of the allowance shall be the same as that paid under the Property Tax Refund Act.

4. Funerals.

a. The local agency shall pay the funeral expenses of AFDC recipients (not exceeding \$370) and actual cemetery charges, unless the deceased's estate or surviving spouse and children are able to pay. The local agency's payment shall not be limited by additional payments for or donation of a cemetery lot, interment, religious service, and transportation of the body to or from the community of the deceased's residence.

b. The state shall reimburse the county for 50 percent of the funeral expenses not exceeding \$370, under this provision, and the county shall have a prior claim against the deceased's estate for the amount of the payments made hereunder.

F. Payment provisions.

1. Payment methods.

a. Money payments. In usual circumstances, AFDC payments shall be made by monthly check to the AFDC recipient. The initial grant shall be retroactive to the first day of the month of application when all eligibility factors were met in that month. The county shall impose no restrictions on the use of the grant. A money payment for one time only may be made to someone acting on behalf of the caretaker in an emergency situation. Recipients may elect to have their monthly Food Stamp purchase requirement withheld from the assistance check.

(1) Payment shall be made only to the address at which the recipient resides, unless another address has been approved in advance by the local agency. Box numbers shall not be sufficient as addresses unless:

(a) prior agency approval has been received for their use; or

(b) box numbers are used in the community as the usual means of mail delivery.

Failure to comply with this provision shall be a sufficient ground for termination of the grant.

(2) A statutory prerequisite to issuance of a dupli-

cate check is the filing of an affidavit with the county agency by the payee attesting to the loss, theft or destruction of the original (the county may require an indemnity bond; however this can be waived by the board of commissioners). The issuance of duplicate checks shall be in accordance with the provisions of Minn. Stat. § 471.415.

b. Protective and vendor payments.

(1) A protective payment is one made to someone other than the recipient; a vendor payment is one made to a provider of goods and services.

(2) Protective and vendor payments shall be made only in the following cases;

(a) when a recipient fails to participate in WIN or during the 60-day counseling period (see H.1.);

(b) when the caretaker fails to assign support, furnish or obtain Social Security numbers for himself/herself, or cooperate in establishing paternity or obtaining support;

(c) when the caretaker's continued mismanagement of funds causes hardship for the children; if this situation persists for more than two years, the agency shall take steps to establish a guardianship or other arrangements for the children.

(3) Protective and vendor payments because of money mismanagement shall not continue for more than two years and are subject to a fair hearing appeal by the recipient. Not more than ten percent of the total state AFDC recipients may be paid through protective and vendor payments under this provision.

(4) When protective and vendor payments because of money mismanagement are required, the local welfare board shall approve the payment method selected before it is implemented, and shall review it at least quarterly.

(5) Protective payments cannot be made to the local welfare director or welfare board members, or to landlords, grocers, or other vendors (who can receive vendor payments); a local agency staff member can be the protective payee for cases other than those in his/her own caseload if no other suitable payee can be found.

(6) As a WIN sanction, protective and vendor payments shall be made according to the above requirements for selection of payees. There shall be quarterly review of the payee's performance by the local agency; the recipient has the right to appeal the use of protective or vendor payments and the payee selected.

(7) For case subject to protective or vendor pay-

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ments because of failure to obtain support or cooperate in establishing paternity, the requirements for the selection of protective payees and vendors and quarterly reviews by the local agency of the way in which the protective payees' duties are carried out must be met. The entire amount of assistance must be made as a protective or vendor payment.

2. Grant termination, suspension, and reduction.

a. AFDC applicants and recipients have the right to a fair hearing if they are aggrieved by action or inaction of the local agency. The following issues shall be appealable:

- (1) denial of application for assistance;
- (2) failure to act upon application within the prescribed time limits;
- (3) suspension of assistance;
- (4) reduction of assistance;
- (5) termination of assistance;
- (6) use of protective/vendor payments;
- (7) referral by local agency to WIN for appraisal interview.

Upon written request from either party, a jurisdictional hearing shall be conducted to determine whether there is in fact an appealable issue. This hearing shall be held upon five days' notice being provided to the affected parties, exclusive of Saturdays, Sundays, and holidays. The determination of the welfare referee may be appealed as provided in Minn. Stat. § 256.045. The right to a fair hearing does not include such matters as the conduct of the local agency staff and discretionary matters such as the replacement of lost or stolen AFDC checks. Such matters should be directed to the local director or local welfare board. The foregoing items are meant to serve as examples only. An appeal shall also be authorized relative to any matter which is appealable based on state law or federal law and regulation as they currently exist or as they may exist based on subsequent amendment.

b. The local agency must give the recipient timely, advance notice of a grant suspension, termination, or reduction. This notice must be in writing, mailed to the recipient at least ten days before the effective date of the action, and must clearly state what action the agency intends to take, the reasons for the action, the right to appeal the action, the conditions under which assistance can be continued, and

any collateral consequences of the action (e.g., loss of Food Stamp or Medical Assistance eligibility). Five days shall be sufficient for timely notice where the agency has verified and documented that the case facts require grant action and the action is based upon probable fraud by the recipient.

c. The local agency must give the recipient adequate written notice, no later than the effective date of the action, when there is:

- (1) confirmation of the death of the recipient or payee;
- (2) a written statement by the recipient that assistance is no longer desired;
- (3) a written information from the recipient that requires grant reduction or termination and the recipient understands that the change will occur; or when:
- (4) the recipient has been admitted to an institution; placed in skilled nursing or intermediate care or long term hospitalization;
- (5) the recipient has been accepted for assistance by another county;
- (6) the recipient has been placed in foster care; or
- (7) the recipient's whereabouts are unknown.

d. If the recipient appeals the agency's action before it is effective, the action shall not be effected until the appeal is decided by the local or state hearings process.

3. Incorrect payments.

a. Underpayments shall be adjusted through an additional or a supplemental payment to the grant; the agency need not correct underpayments made more than 12 months prior to the date of discovery of error.

b. Overpayments caused by client or ~~and~~ agency error shall be corrected through the process of recoupment or by the recipient's voluntary reimbursement. Voluntary reimbursements must be documented by the recipient's signed agreement and shall not be fulfilled through reduction of the grant. Overpayments caused by client error shall not be recouped unless the process is begun within a year after the agency learns of the overpayment. The process begins with the sending of the notice. Overpayments more than 12 months old when the agency learns of the error may

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not be recouped. Overpayment due solely to agency error shall be recouped for the three months prior to the discovery if the client is notified in writing.

c. Recoupment shall be made by deducting an amount up to one-half of the recipient's disregarded earnings from the AFDC grant until the overpayment has been corrected. Recoupment shall be made only from recipients who have disregarded earnings. If recoupment has been interrupted by termination of employment or assistance, the recoupment shall be resumed when the individual resumes AFDC and employment.

d. The provisions of this section regarding incorrect payments shall be applicable to cases involving recipient fraud or abuse.

4. Wrongfully obtained assistance. The legal basis for prosecution of fraud in the AFDC program is Minn. Stat. § 256.98.

a. ~~The legal basis for civil and/or criminal action in the AFDC program is Minnesota Stat. 256.98, which covers both:~~

~~(1) willfully false statements or representations;~~
and

~~(2) intentional concealment of material facts.~~

b. a. The local agency director shall be responsible for securing appropriate action relative to any fraud allegation received. Appropriate action shall include:

(1) issuing timely notice and taking grant action where warranted;

(2) referring cases of suspected fraud to the agency investigative unit for necessary investigations; and

(3) insuring the referral of substantiated fraud to the county attorney for necessary legal action.

e. b. If eligibility otherwise exists, a grant shall be continued at the established level when fraud is suspected or the case is under investigation for fraud.

d. c. Recovery in fraud cases may be based on client agreement, recoupment or court order. A client's basic grant shall not, however, be reduced to meet the recovery obligation. Recoupment shall be applicable only in cases involving disregarded earnings and shall follow the procedures outlines above dealing with incorrect payments.

e. d. The local agency director shall be responsible for securing and reporting such statistical data on agency

fraud prevention activities as the commissioner may require.

G. Relative responsibility.

1. Procedures.

a. Parents, grandparents, brothers and sisters shall be responsible for the support of children on AFDC; spouses shall be responsible for the support of their spouses whose needs are included in an AFDC grant.

b. Failure of responsible relatives to furnish support shall not render an individual ineligible for AFDC; the local agency shall take the steps outlined in this rule to seek support from responsible relatives whom it believes are able to contribute toward the needs of AFDC recipients.

c. If the responsible relative fails to contribute support after the local agency notifies him/her of his/her obligation to do so, the agency shall notify the county attorney or the Commissioner of Welfare to take legal action against the relative.

d. The amount of support recoverable from a responsible relative, other than the parent of a child under 18, shall not exceed the amount of AFDC assistance granted after the relative is notified of his/her obligation to support. Recovery shall apply only to the period following issuance of notice to contribute. However, the court can order continuing contribution while the recipient continues to receive public assistance.

2. Standards of support.

a. The amount of support due from the absent parent of a child or the parents of a child in AFDC-FC shall be established by the court or through voluntary agreement by the absent parent and the local child support unit.

b. Parental income shall be totally available for the needs of children under 18 and residing in the parental home. The ability of parent to support a minor, including one who is eligible for AFDC as a caretaker relative, shall be based upon a determination of parental income according to the procedures used in establishing AFDC eligibility for new applicants. All income in excess of the appropriate AFDC Standard is available for the support of the minor.

c. The financial contribution of other responsible relatives, and the parents of caretakers under 18 and residing outside the parental home, shall be computed according to the relative responsibility scale.

3. Relative responsibility scale.

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Size of Family	Annual Cost of Living (ACL)	Monthly Cost of Living
1	\$ 5,304	\$ 442
2	8,196	683
3	11,784	982
4	14,088	1,174
5	16,200	1,350

Twenty percent of the ACL for a family of five shall be added for each additional family member.

a. The gross income of the responsible relative shall be assessed against the above scale; taxes or employment expenses shall not be deducted.

b. "Size of family" means all persons who are in fact supported by the responsible relative (whether or not he/she is legally responsible for their support).

c. Other justified expenses (such as medical and education bills, or housing costs exceeding 30 percent of the family's gross income) shall be deducted from the gross income.

d. If a minus balance remains, no contribution shall be expected. If a plus balance remains, 1/3 of the amount shall be the expected contribution.

4. Child support and paternity.

a. Every AFDC applicant and recipient shall be required to furnish information (including court testimony) needed by the local agency to obtain child support payments, locate absent parents, establish paternity, and obtain support from responsible relatives.

b. If a caretaker relative fails to cooperate with the above requirements, his/her needs shall be deleted from the grant and the eligible children shall be furnished assistance through protective or vendor payments.

c. If a court orders child support paid by an absent parent, the local agency shall petition the court for an order directing that all such payments be made to the local welfare board until AFDC assistance stops.

d. The regulations and procedures of Title IV-D of the federal Social Security Act shall be applied in the collection of support and establishment of paternity.

e. ~~Regulations and procedures of Title IV-D of the Social Security Act shall apply to AFDC-FC.~~

H. Other program requirements.

1. Work Incentive Program (WIN).

a. Registration requirements.

(1) All AFDC applicants and recipients residing in WIN counties (who are not exempted below) must register for WIN as a condition of eligibility.

(2) The following persons shall be exempted from WIN registration:

(a) children under age 16;

(b) children age 16 through 18 attending school full time;

(c) persons who are ill;

(d) persons who are incapacitated; if WIN exemption is based on incapacity a referral to the Division of Vocational Rehabilitation is mandatory; (NOTE: the local agency may require a physical examination to confirm illness or incapacity.) or

(e) over age 65;

(f) persons who live so far away from a WIN project that more than a 10-hour day (employment plus commuting time) would be required to participate;

(g) persons whose presence in the home is needed because of the illness or incapacity of other persons;

(h) a caretaker of a child under age six (only one such exemption is allowed per family); (In AFDC-UF cases, either parent may elect to claim this exemption);

(i) the spouse of a WIN registrant.

b. Other WIN requirements.

(1) If a required WIN registrant refuses to register, his/her needs shall be deleted from the AFDC grant; if the only dependent child over age 16 and not in school in a family refuses to register, the entire AFDC grant for the family will be denied or terminated. If the father in an AFDC-UF case refuses to register, or if he refuses a bona fide offer of employment or training without good cause, the entire family is ineligible for AFDC-UF.

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(2) An AFDC applicant or recipient may contest the requirement that he/she register for WIN through the fair hearing procedure.

c. "Failure to participate in WIN" means:

- (1) failure to attend the WIN appraisal interview;
- (2) failure to accept child care plans for the WIN program;
- (3) failure to participate in Job Service Office of the Department of Economic Security activities;
- (4) failure to accept employment or training;
- (5) failure to remain in employment.

d. If a WIN registrant fails to participate in WIN, WIN Job Service Office of the Department of Economic Security shall provide him/her an opportunity to contest whether or not this failure was for good cause; the decision of this hearing shall not be appealable to the Commissioner of Welfare and the result shall be binding on the local welfare agency. If the hearing opportunity is not taken, or if the failure to participate is found to be without good cause, WIN will provide the individual with a 60-day counseling period to correct the situation.

e. If an individual is found to have failed to participate in WIN, the following sanctions shall apply:

(1) If the individual is the only dependent child in an AFDC family, assistance for the entire family shall be terminated; if the individual is one of several dependent children in an AFDC family, his/her needs shall be deleted from the AFDC grant. In AFDC-UF, if the father refuses to accept a bona fide offer of employment or training without good cause, he shall be considered deregistered and the entire family shall be ineligible; unless the individual is undergoing the 60-day counseling period which is described in H.1.e.(2).

(2) If the individual is the caretaker of AFDC children, his/her needs shall be excluded from the grant and assistance to other family members will be provided through protective or vendor payments. If the individual is undergoing the 60-day counseling period his/her needs will not be removed from the grant; however, assistance to the family shall be provided in the form of protective or vendor payments. These sanctions shall not apply to persons who are voluntary WIN registrants.

An individual who has been found to have failed to participate in WIN without good cause must wait 90 days after his/her AFDC benefits are terminated to reregister for WIN; if an individual has twice failed to participate

in WIN without good cause, he/she must wait six months to reregister. WIN may reaccept any such reregistrant whose prior failure to participate was the result of criminal or other activities which presented a hazard to WIN staff or other WIN participants.

f. A WIN participant's monthly \$40 training allowance and \$30 incentive payment shall be disregarded as income in computing the AFDC grant.

g. Public Service Employment (WIN/PSE) shall not be subject to the \$30 plus 1/3 disregard.

h. On-the-job training (WIN/OJT) shall be subject to ~~for~~ the \$30 plus 1/3 disregard plus employment expenses. If the recipient is on AFDC-UF, the 100 hour rule shall apply.

2. Emergency Assistance for families with children under age 21 (AFDC-EA).

a. Eligibility qualifications.

(1) Emergency Assistance is immediate financial aid for AFDC families and other families in situations that place a child and any other member(s) of the family in jeopardy and cannot be resolved with the family's current resources. Examples of emergencies are natural and civil disorders, illness, accident, death, threat of eviction, etc.

(2) Emergency Assistance shall be granted only to a family which includes a child (under age 21) who is (or within six months prior to application has been) living with a relative eligible as an AFDC caretaker, and which is completely without resources to solve the emergency. It shall not be available to persons or on behalf of children over age 16 and not in school who have refused employment or training without good cause.

b. Allowable need items.

(1) Emergency Assistance shall cover payment for food, shelter, clothing, fuel and utilities, medical care and child care. It may also cover moving expense, major home repairs and major furniture and appliance replacement, replacement of furnace, roof, plumbing, or electrical systems, if authorized by the local agency before the expense is incurred.

(2) Emergency Assistance shall be available when the proceeds of cashed AFDC checks are lost or stolen; the theft must be reported to the police and the local welfare agency in the form of an affidavit. It shall not be available when uncashed AFDC checks are lost or stolen; in such cases, the lost or stolen AFDC funds ~~may~~ shall be replaced by ~~another AFDC check.~~ in accordance with the provisions of F.1. of this Rule.

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c. Emergency Assistance payments.

(1) The amount of Emergency Assistance shall be based on the AFDC Standard and the state standard for special need items; if this sum is insufficient to meet need, the AFDC-EA allowance shall be based on cost. Payments may be made as money, vendor payments, payments in kind, or in the form of interest free loans (up to \$100) for employment expenses.

(2) AFDC-EA shall be granted only for one consecutive 30-day period in one consecutive 12-month period; needs which accrue prior to the 30-day period may be met only when necessary to resolve the current emergency situation (e.g., back rent or utility payments). Assistance may be extended for up to 30 days beyond the 30-day base period, if authorized during the base period.

(3) Each local agency shall designate at least one staff member to authorize immediate AFDC-EA grants.

3. AFDC-Foster Care (AFDC-FC).

a. Eligibility for AFDC-FC.

(1) AFDC-FC shall be available for children placed by judicial action in foster homes or private nonprofit child caring institutions. All such institutions, homes and agencies must be licensed for child caring. Payments for foster or institutional services may be made to cooperating

public or private agencies for care given in foster homes or nonprofit private child care institutions.

(2) AFDC-FC shall not be available when the child lives with a relative who is legally liable for support. AFDC-FC shall be paid to non legally responsible relatives who are licensed or approved as foster care providers.

(3) AFDC-FC shall be available only for children eligible for ordinary AFDC during the month in which judicial proceedings are started, or who would have been eligible during the prior six months and if they had lived with an eligible relative.

b. AFDC-FC shall be available whether or not parental support is available; the local agency shall petition the juvenile court for an order requiring the parents to contribute to the child's support.

c. AFDC-FC will be paid to the foster home parent or institutional care representative, as the provider of care, not as the payee.

d. AFDC Foster Care Rates (AFDC-FC).

(1) The rates for AFDC-FC shall be applicable to foster and group homes and child care institutions. In no circumstances can rates paid to institutions include overhead costs.

Mandatory Statewide Rates (Basic)

Age	Basic Rate		Initial Clothing
	Monthly	Per Diem	
0-3	\$123	4.10	\$ 56
4-8	156	5.20	83
9-11	172	5.73	110
12-14	206	6.87	192 193
15-18	225	7.50	221

The initial clothing allowance shall be available at the time of the initial application and each reapplication. The care rate includes food, clothing, shelter, physical attendance, and supervision, and transportation. Additional payments may be made for specific social services provided by the foster home or child care institutions. Additional payments shall not be made to supplement maintenance costs.

(2) In addition to the basic rate, monthly payments for additional maintenance needs (as determined by the local agency) may be made. The additional care rates shall be determined by adding the points assigned to each level and type of care required by the child. No more than 175 points may be designated for each child.

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Difficulty of Care Schedule and Rates

	A	B	C	D	E
Emotional	5	15	30	60	175
Physical	5	15	30	60	175
Auxiliary	5	10	15	60	

Points	Monthly	Daily	Points	Monthly	Daily
5	34	1.13	95	242	8.07
10	45	1.50	100	253	8.43
15	57	1.90	105	265	8.83
20	68	2.27	100	276	9.20
25	80	2.67	115	288	9.60
30	91	3.03	120	299	9.97
35	103	3.43	125	311	10.37
40	114	3.80	130	322	10.73
45	126	4.20	135	334	11.13
50	138	4.60	140	345	11.50
55	149	4.97	145	357	11.90
60	161	5.37	150	369	12.00 12.30
65	172	5.73	155	362 380	12.67
70	184	6.13	160	392	13.07
75	195	6.50	165	403	13.43
80	207	6.90	170	415	13.83
85	218	7.27	175	426	14.20
90	230	7.67			

(a) Emotional.

(i) Level A. These are children who periodically exhibit excessive dependency, passivity, lack of responsiveness and the inability to relate.

(ii) Level B. Children at this level require abnormal amounts of attention and affection, and have need for a regimental program, such as behavior modification. Such children often have school problems, difficulty with peers, moodiness, and frequent enuresis. Foster parents often have to provide an abnormal amount of structure (e.g., constant repetition and follow through on instructions).

(iii) Level C. These children exhibit extreme attention-seeking behavior, stealing, drug use, encopresis, destructive behavior, extreme hyperactivity, sexual acting-out, running away, withdrawal, etc.

(iv) Level D. These children show extreme bizarre behavior, and may be self-destructive and require exceptional care.

(v) Level E. Children at this level show severely disturbed behavior, such as frequent running away, depression, attempted suicide, fantasizing, or inappropriate

behavior. They may be dangerous to themselves or others, and cannot be maintained in a normal family setting.

(b) Physical.

(i) Level A. These children need some help with putting on braces or prosthetic devices, some help with buttons, laces, etc., but are basically self-caring.

(ii) Level B. These children need help with dressing, bathing, and general toilet needs, as well as some help in ambulation. They exhibit feeding problems such as excessive intake, or are extremely slow and/or messy requiring help and/or supervision due to retardation or emotional or physical handicap. They may need tube or gavage feeding. They may need physical therapy, under one hour per day.

(iii) Level C. These children need appliances for drainage or ileal conduit, or a colostomy. They may need aspiration, suctioning, mist tent, etc. They are non ambulatory, needing constant attendance, and/or prescribed physical therapy, 1-2 hours per day, by foster parent.

(iv) Level D. These children require custodial care, and physical therapy 2-3 hours per day. They may have uncontrollable seizures.

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(v) Level E. Due to the severity of their physical handicap, these children are unable to tolerate a normal family setting and require ongoing care. Such children possibly need 24 hour supervision.

(c) Auxiliary.

(i) Level A. These children require special diets or supplements that require extra expense and are not covered under any other program. Regular but infrequent (less than monthly) trips must be made to a physician, psychiatrist, therapist, etc.

(ii) Level B. These children require special equipment or a regular and consistent tutoring program at home. There is unusual wear and tear on the home, and need for occasional periods of relief by an adult. Therapeutic appointments must be met every two to four weeks.

(iii) Level C. There is extreme wear and tear on the home, frequent hospitalizations, and/or therapeutic visits every two weeks or oftener.

(iv) Level D. These children exhibit either emotional or physical problems of such severity that the foster parents must make extraordinary adjustments in their family life style to accommodate the foster child. Such adjustments may include, but not be limited to, ongoing regular attendance at supportive group meetings, physical changes in the home (such as building ramps, installing lifts, etc.), ongoing consultation with child care professionals. These children require foster parents who have shown skill in adapting family life to the needs of each child.

I. Relationship to other programs.

1. AFDC recipients are automatically eligible for:

a. Medical Assistance upon signing a benefit assignment Form 1933; for health care coverage in which he/she is a policyholder.

b. Food Stamps;

c. Social Services;

2. AFDC recipients may not be simultaneously eligible for:

a. General Assistance unless served by the Battered Women Program;

b. Poor Relief;

c. Supplemental Security Income;

3. The Income Maintenance Unit shall refer all cases involving minor caretakers to the Social Service Unit for evaluation of service needs. Such referrals shall not be a factor in determining eligibility, and shall be made after such eligibility is determined.

4. The following programs are not a bar to AFDC eligibility but may furnish the AFDC family with another source of support (which may remove the need for AFDC):

a. Retirement, Survivors, and Disability Insurance;

b. School Lunch Program;

c. services and payments to veterans and armed forces personnel;

d. services and payments for immigrants and refugees;

e. Servicemen's Quarter Allowances.

The local agency shall help the AFDC recipient explore the resources offered by these programs.

J. Miscellaneous.

1. Former DPW Rule 44 is hereby amended.

2. The provisions of this rule shall be severable and if any phrase, clause, sentence or provision is declared illegal or of no effect, the validity of the remainder of this rule and the applicability, thereof, to any agency, person, or circumstances shall not be affected thereby.

3. The effective date of this ~~R~~rule is ~~five working days after the adopted rule is published in the State Register.~~ the first day of the month following publication in the State Register, but not less than five working days after publication.

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Board of Teaching

Adopted Rules Governing Issuance and Renewal of All Licenses; Fees, Continuing Education/Relicensure, Appeal, Nursery School Teachers, Prekindergarten Teachers and Prekindergarten Associates, Teachers of Art, and Code of Ethics

The following rules were proposed and published at *State Register*, Volume 2, Number 8, p. 311, August 29, 1977 (2 S.R. 311), and are now adopted with the following amendments:

Rules as Adopted

5 MCAR § 3.003 Issuance and renewal of all licenses; fees.

A. 4. Career license — valid for 10 years.

E. The fee shall be nonrefundable for applicants not qualifying for a license, provided however that except the fee shall be is refundable by the state treasurer in those cases in which when the applicant for a license already holds a valid unexpired license the license for which application is made and that license does not expire in the year the application is submitted.

5 MCAR § 3.005 Continuing education/relicensure.

C. Pursuant to procedures specified in this rule, a valid continuing license ~~may shall~~ be renewed for a subsequent period of five years when an applicant presents evidence of having been granted 120 renewal units during the five-year period immediately preceding the date on which the requested renewal is to be made effective.

D. 2. An applicant who once held a Minnesota entrance or continuing license in a field and has allowed it to lapse may be issued an entrance license in that field.

D. 3. 2. An applicant holding a continuing or life license in one education area and who wishes to engage in another education area for which the applicant is not presently licensed ~~may shall~~ be issued a continuing license for the additional area upon meeting the requirements for that license.

E. 2. The local committee ~~may shall~~ grant renewal units and allow accumulation of renewal units ~~for the experiences listed in 1, above, according to the provisions of this rule.~~ Maximum renewal unit allocations for specific experiences identified below are to be used as a guide for allocating renewal units for other experiences.

E. 4. An applicant requesting renewal of a license to teach must earn a minimum of 120 renewal units during each five-year licensure period from July 1 of the year of issuance to June 30 of the year of expiration. An applicant may not bank renewal units for purposes of relicensure, ~~but may accumulate renewal units according to provisions relating to career licensure.~~

E. 7. One hundred twenty units for renewal shall be required for licenses expiring July 1, 1978, and thereafter.

F. The state committee for continuing education/relicensure.

1. The state committee shall be selected and constituted by the board of teaching as follows:

- a. Four full-time licensed classroom teachers.
- b. One full time vocationally licensed classroom teacher.
- c. One person currently serving on a local school board.
- d. One licensed school administrator.
- e. One teacher educator.
- f. One member of the lay public.

g. A department of education staff member selected by the board of teaching shall be an ex-officio, non-voting member.

2. The terms of office of voting members of the state committee shall be three calendar years.

3. The state department of education shall provide clerical and staff assistance for the state committee. Expenses incurred by the state committee shall be paid by the board of teaching.

4. At the first meeting in each calendar year, the state committee shall elect a chairman and secretary whose duties shall be established by the state committee.

5. Meetings may be called by the chairman of the committee, by the board of teaching, or by written request of four or more of the members. Written notice of each meeting

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shall be sent to each member of the committee and shall be mailed at least five days prior to the date of the meeting.

6. A quorum shall be more than fifty percent of the total voting membership of the committee. A majority vote of those voting members present shall be sufficient to take action.

7. The duties of the state committee are as follows:

a. Establish rules for its own operation in accordance with law.

b. Review annually the criteria for granting renewal units identified in this rule.

c. Review decisions and interpretations on guidelines at request of local continuing education committees.

d. Consider and decide appeals from decisions of local committees.

e. Review statewide in service education needs.

f. Provide all pertinent information to the board of teaching in cases of appeal to that board.

g. Perform such other duties as the board of teaching may direct.

8. All rules, interpretations and decisions promulgated by the state committee shall be subject to the final authority of the board of teaching.

G. F. Local committees for continuing education/relicensure.

1. A local committee as authorized by Minn. Stat. § 125.185, subd. 4 shall be established in each Minnesota public school district with membership as follows:

F.7.e. Provide supporting evidence to the state committee Board of Teaching when an appeal is taken from a decision of the local committee.

F.7.g. Evaluate procedures and criteria for granting renewal units and make recommendations for modifications to the director of licensing during February of each year. Recommendations will be referred to the state committee.

F.7.k. Evaluate the experiences and certify the acceptable applications of all requests for career licensure. k. Hold

an open hearing annually to allow the teachers in each district to review the guidelines established by the local committee.

F.7.l. ~~Accept the affirmations of career licenses, and certify an active or inactive status.~~

F.7.m. ~~Initiate and maintain a current file of all career licenses within the local committee's area of responsibility.~~

F.7.n.1. Provide those services and reports that may be required from time to time by the board of teaching.

F.12.b. A plan for two or more districts to formulate a joint local committee shall be drawn up by a committee consisting of two teachers, one administrator, and one school board member or a designee, from each participating district, and be ratified by at least seventy percent of the licensed personnel employed by each participating district. The plan shall provide for fair representation of all licensed personnel and insofar as possible, shall be consistent with G.F.1. and other provisions of this rule.

F.12.d. The joint local committee, if approved by the state committee, shall be treated as any local committee and shall comply with all provisions of this rule.

F.14.a. The criteria for licensure renewal contained in the Minnesota state plan for vocational-technical education or successor rules shall replace the provisions of E.1.

F.14.b. Vocational teachers shall be subject to the continuing or career education structure as outlined in the Minnesota state plan for vocational-technical education or successor rules. Such licensure shall be recommended by the local vocational relicensure committee. Vocational teachers employed in school districts or state board approved vocational or cooperative centers currently employing a combination of individuals with standard and vocational licenses shall select one of the options listed below. The selection of alternatives shall be made by a vote of these teachers currently using vocational licensure, and such election shall originally be supervised by the chairman of the local continuing education committee.

F.14.b.(1) Vocational teachers may be subject to the local committee, as established in ~~G.1.~~ except that five vocationally-licensed vocational teachers currently teaching full-time on a valid vocational license, as elected in secret ballot by the district or state board approved vocational or cooperative center vocationally licensed teachers, shall be the teaching faculty members on the committee whenever issues of vocational licensure arise.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language. 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."

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F.14.b.(2) A separate local vocational committee, subject to all of the provisions of G., may be formed by the election of the vocational teachers, five vocationally-licensed teachers currently teaching full-time on a valid vocational license, along with representation from the public and administration. This option shall be limited to those school districts or state board approved vocational or cooperative centers utilizing twenty five (25) or more vocational licensees.

F.14.b.(3) Vocational teachers in two or more districts or state board approved vocational or cooperative centers situated in close proximity may operate under the provisions of G., establish a joint local committee, and may select either option (1) or (2).

F.14.b.(4) Vocational teachers may be subject to the local continuing education/relicensure committee as currently established, when such teachers teach in a district which employs less than five vocational teachers or which is geographically located so it cannot feasibly cooperate with another district.

F.14.e. The membership of the state committee for continuing education/relicensure shall be reconstituted in those instances involving appeals on vocational licensure to substitute four vocationally licensed teachers currently teaching full-time on a valid vocational license for the four full-time classroom teachers. Such members shall be selected by the Minnesota board of teaching. In such cases, the committee shall be known as the state committee for vocational continuing education/relicensure, and shall meet in conjunction with the standard state committee when informed of such a need by the director of licensing. A coordinator for vocational continuing education, who shall serve as an ex-officio, non-voting member during vocational appeals, shall be appointed by the commissioner of education.

F.14.d.G. Colleges or universities which prepare teachers for licensure in education may, if at least twenty of its faculty members apply for teacher licensure, either form a local committee or combine with other colleges or universities to form joint committees. The structure and guidelines of such committees shall be subject to the approval of the state committee.

H. Right of appeal.

1. An appeal may be made to the state committee where an applicant has not been granted the requested number of renewal units. To initiate the appeal process, an applicant must appeal to the state committee within twenty days after notification of the decision of the local committee. In cases where the applicant has not been granted the required number of renewal units for relicensure, local committees shall not endorse the application for renewal of the continuing license.

a. In the event that the renewal units under appeal result in loss of licensure, it shall be the responsibility of the appellant to inform the director of licensing of such loss of licensure. The director of licensing shall extend the previous continuing license until all avenues of administrative appeal have been exhausted.

2. The applicant making the appeal may submit written evidence in support of the appeal and may appear before the state committee. The local committee shall present written evidence supporting its decision and may also send a representative to appear before the state committee.

3. If the decision of the local committee is upheld by the state committee, an appeal may be made to the board of teaching within twenty (20) days of the notification of the appellant of the decision of the state committee.

1. When an applicant has not been granted the requested number of renewal units by a local continuing education/relicensure committee, an appeal may be made to the local committee. An applicant must appeal to the local committee within thirty days after notification of the decision of the local committee. Failure to file a written request with the local committee for an appeal within thirty days constitutes a waiver of the individual's right to appeal.

2. Decisions by a local committee for continuing education/relicensure denying the appeal may be appealed to the board of teaching by the applicant according to the provisions of 5 MCAR § 3.020.

3. In cases where the applicant has not been granted the required number of renewal units for relicensure, local committees shall not endorse the application for renewal of the continuing license.

4. In the event that the renewal units under appeal result in loss of licensure, it shall be the responsibility of the appellant to inform the director of licensing of such loss of licensure. The director of licensing shall extend the previous continuing license until all avenues of administrative appeal have been exhausted.

I. Evaluation. 1. The functions of the state committee and the local committees shall be evaluated by the board of teaching during each calendar year which is divisible by five.

J. Effective date: July 1, 1978.

5 MCAR § 3020 Appeal to the Minnesota Board of Teaching.

A. All persons denied issuance or renewal of teaching licenses, and all Minnesota teacher preparing institutions

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denied program or college approval, and all persons licensed by the Minnesota Board of Teaching whose appeals are denied by the state local committee for continuing education/relicensure, are hereby entitled to a hearing pursuant to Minn. Stat. ch. 15 on such denial and to a final decision by the Minnesota Board of Teaching.

~~C.~~ This rule shall be effective July 1, 1978.

5 MCAR § 3.052 Nursery school teachers.

Repeal. A.3. Effective July 1, 1978.

Repeal. Effective July 1, 1978 A.4. A.3.

Repeal. C. Effective July 1, 1978.

C. The provisions of this rule shall remain in effect until July 1, 1984, at which time this rule shall be repealed without further action by the Board of Teaching.

5 MCAR § 3.053 Licensure of prekindergarten teachers and prekindergarten assistant teachers associates.

A.1.a. Prekindergarten teacher licensure ~~may~~ shall be issued to an applicant who has completed the following:

~~A.1.b. c.~~ Prekindergarten teacher licensure requirements for kindergarten/elementary teachers are as follows:

A.1.c.(2)(a) A minimum of 6 semester or 9 quarter hours in prekindergarten education, including not fewer than 2 semester or 3 quarter hours of credit in student teaching at the prekindergarten level. Course work shall be selected from theory, curriculum, classroom management, teacher-child relations, and home-school relations.

A.1.c.(2)(b)(i) Child development/child psychology shall include the study of infants and young children with emphasis on stages of development, individual differences in rates and styles of learning, and assessment, record keeping, and observation skills.

A.1.c.(2)(b)(ii) Parent-child relations shall include the study of the child in the family and the family as a social/cultural unit.

A.1.e.d. Continuing licensure ~~may~~ shall be granted to a candidate who

A.1.d.e. The continuing license ~~may~~ shall be renewed

according to the rules of the Board of Teaching pertaining to continuing education.

A.1.e.f. No change in language.

A.1.f.g. No change in language.

B. Prekindergarten assistant teacher associate.

1. The prekindergarten assistant teacher associate is licensed to teach a group of children on a daily basis under the direct supervision of a licensed prekindergarten teacher in the classroom. The prekindergarten assistant teacher associate takes an active part in planning and implementing the instructional program, but does not assume overall responsibility for the program.

a. Prekindergarten assistant teacher associate licensure ~~may~~ shall be issued to an applicant who has completed the following:

a.(2) The requirements of a prekindergarten assistant teacher associate preparation program approved by the Minnesota Board of Teaching. The prekindergarten assistant teacher associate preparation program shall include 12 semester or 18 quarter hours of the course work or its equivalent which is listed below. These courses may be taken as part of, or in addition to, the 60 semester or 90 quarter hours or associate of arts or associate of science degree.

b. The prekindergarten assistant teacher associate preparation program shall include the following:

B.1.b.(2)(a)(iii) Assessment, record keeping, and observation skills.

B.1.b.(2)(b)(iii) ~~Assessment, record keeping, and observation skills.~~

B.1.c. Continuing licensure ~~may~~ shall be granted to a candidate who:

B.1.d. The continuing license ~~may~~ shall be renewed according to the rules of the board of teaching pertaining to continuing education.

5 MCAR § 3.074 Teachers of art.

E.1.d.(2) Student teaching experience shall consist of full school day experiences under the supervision of a licensed teacher of art. Such experiences shall be at both the

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kindergarten through grade 6 level and the grade 7 through grade 12 level for a minimum of six weeks at one level and an additional minimum of four weeks at the other level total of one academic quarter or the equivalent thereof.

E.2.d.(2) Student teaching experience shall consist of full school day experiences under the supervision of a licensed teacher of art at the pre-kindergarten, primary grades (grades 1-2-3), and upper elementary grades (grades 4-5-6) levels for a minimum of ten weeks total of one academic quarter or the equivalent thereof. However, ~~(3) A~~ a candidate for licensure as a teacher of art who has completed student teaching requirements for another elementary teaching license may, upon satisfying all other requirements of this rule, student teach for a minimum of five weeks one half of one academic quarter or the equivalent thereof under the supervision of a licensed teacher of art. to be recommended for licensure as a teacher of art for pre-kindergarten through grade 6.

E.3.d.(2) Student teaching experience shall consist of full school day experiences under the supervision of a licensed teacher of art at the junior high school and/or the high school level for a minimum of a total of ten weeks one academic quarter or the equivalent thereof.

G. The continuing license ~~may~~ shall be renewed according to general rules of the board of teaching pertaining to continuing licensure.

5 MCAR § 3.130 Code of ethics for Minnesota teachers.

B.1. A teacher shall provide professional educational services in a nondiscriminatory manner, ~~regardless of age, sex, national origin, race, color, creed, religion, disability, or status with regard to public assistance, and/or marriage.~~

B.3. In accordance with state and federal laws, a teacher shall protect the right of individual privacy in accordance with existing law; disclose confidential information about individuals only when a compelling professional purpose is served or when required by law.

4. A teacher shall take reasonable disciplinary action in exercising the authority to ~~maintain classroom management in order to~~ provide an atmosphere conducive to learning.

6. A teacher shall delegate authority for teaching responsibilities only to licensed personnel.

7. A teacher shall not deliberately suppress or distort subject matter, in order to promote the personal views of the teacher.

10. A teacher shall accept ~~contractual teaching assignments only in those areas for which that teacher is licensed a contract for teaching position that requires licensing only if properly or provisionally licensed for that position.~~

D. Enforcement procedures. ~~4.~~ The Minnesota board of teaching may ~~in its discretion~~ impose one or more of the following penalties when it has found a violation of the code of ethics. These actions shall be taken only after all previous efforts at remediation have been exhausted.

~~b.~~ 1. No change in language.

~~a.~~ 2. No change in language.

~~e.~~ 3. No change in language.

~~d.~~ 4. No change in language.

~~e.~~ 5. No change in language.

SUPREME COURT

Decisions Filed Friday, January 12, 1979

48220/296 E. Lester Zinnel, Trustee for the Heirs of Patricia L. Zinnel, Deceased, et al, Appellants, vs. Berghuis Construction Company, et al. Watonwan County.

Directed verdict for defendant highway contractors arising out of a two-automobile collision on the bypass of a highway under construction was proper where, notwithstanding the alleged causal negligence of contractors in signing, striping, and barricading the highway, there was insufficient evidence from which a jury could find that the alleged negligence was the proximate cause of the accident.

Affirmed. Peterson, J. Took no part, Otis, J.

48406/302 Portland Residence, Inc., petitioner, Appellant, vs. Minnesota Department of Public Welfare and George Gaylord, et al, intervenors. Hennepin County.

Whether the staffing ratios contained in 45 CFE § 249.13 (1974) were a minimum, immediate requirement in 1976 depends on what is a reasonable amount of time under the facts of this case in which to hire and train the necessary staff and on the reasonableness of the provider's belief that it was required to hire additional staff because of an inspection report of the Department of Health.

Remanded to district court for remand to the administrative agency for proceedings consistent with this opinion. Peterson, J. Took no part, Otis, J.

48385/390 State of Minnesota, Department of Natural Resources, by Its Commissioner, Appellant, vs. Wesley Olson. Big Stone County.

An individual intending to drain a body of public waters is required, pursuant to Minn. St. § 105.38, to obtain a permit from the Department of Natural Resources, and any drainage prior to acquisition of the permit is impermissible.

Where the appellant challenges the constitutionality of the permit requirement in Minn. St. § 105.42 prior to being denied a permit by the Department of Natural Resources, no justiciable controversy is presented.

Reversed and remanded for proceedings consistent with this opinion. Todd, J.

48431/314 Columbia Heights Motors, Inc., vs. Allstate Insurance Company, Appellant. Hennepin County.

If the language of an insurance policy is reasonably subject to more than one interpretation, it is ambiguous.

Reasonable doubt as to the meaning of the language of an insurance policy must be resolved in favor of the insured.

Affirmed. Yetka, J. Took no part, Otis, J.

48267/320 State Bank of Morristown, Plaintiff, vs. Martin C. Labs, a.k.a. Marty Labs, Appellant, Henry Nagel. Rice County.

Where a judgment entered pursuant to an order of the district court against the maker of a promissory note in favor of an accommodation signer fails to state the amount of indemnity due the accommodation signer, the judgment thereby entered is not void of itself.

The entry of a subsequent judgment specifying the amount due is not a "second" judgment in the same cause of action but is at most a correction of an erroneously entered previous judgment.

This court will not consider a defense of laches to the entry of judgment when it is raised for the first time on appeal.

Affirmed. Yetka, J. Took no part, Otis, J.

48003/328 Louise B. Cobb, et al vs. Aetna Life Insurance Company. Ramsey County.

Death resulting from the aspiration of gastric contents is a death caused by accident within the meaning of the accidental death insurance policy in question.

A trial court is to be accorded wide latitude in phrasing its instructions to the jury, and the instructions are sufficient so long as they fairly lay down the law of the case.

In reviewing a jury verdict on appeal, this court must consider the evidence in the light most favorable the prevailing party and the verdict must be sustained unless it is manifestly and palpably contrary to the evidence.

Affirmed. Scott, J.

48542/388 Russell Boynton Ives vs. Sunfish Sign Company, Inc., U.S. Fidelity & Guaranty Insurance, Relator, and State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

SUPREME COURT

Minn. St. § 176.185, subd. 1, requiring written notice to an insured and to the Department of Labor and Industry before a worker's compensation insurance policy is terminated, applies equally to written binders of insurance.

Affirmed. Scott, J.

48657/420 James Peterson, d.b.a. Rising Sun Health Club, petitioner, Appellant, vs. Minneapolis City Council and City of Minneapolis Hennepin County.

The Minneapolis City Council's denial of appellant's license application to operate a massage parlor, which was used in part, on his prior felony conviction, is not in contravention of Minn. St. ch. 364. The council could properly conclude that appellant's prior conviction was directly related to the occupation for which he sought a license and that he had not been sufficiently rehabilitated so as to be presently fit to operate a massage parlor.

There is no merit to appellant's claim that the evidence was otherwise insufficient to justify the denial of his license application.

Affirmed. Scott, J. Took no part, Otis, J.

47427/348 State of Minnesota vs. Paul Vail, a.k.a. (1977) Boston Paul Vail, Appellant. Olmsted County.

While penal statutes must be strictly construed, we will not indulge in a restricted reading where its effect would be to create serious anomalies and constitutional problems.

The definition of marijuana contained in Minn. St. § 152.01, subd. 9, includes all species of the genus *Cannabis*.

Because the state must prove the actual identity of the controlled substance, non-scientific evidence which merely permits an inference of the accused's belief of the identity of the substance is not sufficient to further the state's burden of proof.

Where the evidence is insufficient to support the verdict rendered by the trial court, the double jeopardy clause bars a new trial.

The classification of marijuana as a Schedule I controlled substance is not a denial of equal protection since the classification is not a controlling factor in the scheme of punishment.

Reversed and judgment of acquittal ordered. Wahl, J. Dissenting, Kelly, Todd, and Scott, JJ.

39747/350 In the Matter of the Application for the Reinstatement of Gordon Clinton Peterson, also known as Gordon C. Peterson, as an Attorney at Law of the State of Minnesota. Supreme Court.

Because the attorney has failed to establish a change in his professional morality by clear and satisfactory evidence, his petition for reinstatement to the licensed bar of Minnesota is denied.

Petition for reinstatement denied. Per Curiam. Took no part, Kelly, J.

47769/421 State of Minnesota vs. Ricky Lynn Hegna, Appellant. Mower County.

The trial court did not commit prejudicial error in admitting eyewitness identification testimony and evidence of statements defendant made to the police after he was arrested where the evidence of defendant's guilt was strong.

Affirmed. Per Curiam.

47866/432 State of Minnesota vs. Dennis J. Moore, Appellant. Itasca County.

Defendant's conviction for the offense of fourth degree criminal sexual conduct was not erroneous despite defendant's claim that his joint trial on the sex offense and the offense of being a felon in possession of a pistol violated the constitutional rights because by failing to move to sever the weapons charge defendant waived his right to challenge the joinder and he has not shown good cause for obtaining relief from that waiver.

Affirmed. Per Curiam.

Opinion Released Thursday, January 4, 1979

49626/Sp. Gay Survival Fund of Target City, Plaintiff-Appellant, vs. Joan Anderson Grove, Secretary of State, and Arthur Roemer, Commissioner of Revenue. Ramsey County.

A political party cannot "present" a candidate for election in a non-partisan judicial election so as to qualify it for major party designation as defined by Minn. St. § 10A.01, subd. 12 and 200.02, subd. 7.

Affirmed. Sheran, C. J. Took no part, Peterson, J.

STATE CONTRACTS



Indians harvested the wild rice in Minnesota's northern lakes by beating the rice kernels from the stalks into their canoes. The engraving is from Henry R. Schoolcraft's *Indian Tribes of the United States* published in 1852. (Courtesy of the J. J. Hill Reference Library and the Minnesota Historical Society)

Department of Natural Resources Waters Division, Dam Safety Section

Notice of Request for Proposals for Contractual Services for Dam Safety Inspections under the National Dam Safety Act

Notice is hereby given to request proposals for engineering consultant contract services for the purposes of inspecting approximately 16 High Hazard dams in Minnesota under the state and federal dam safety program.

The engineering consultant contractors will be required to provide a systematic inspection, evaluation and report on each of the High Hazard dams selected for inspection in accordance with the Scope of Work defined in the state contract with the U.S. Corps of Engineers. All applicants must also file Form 255 and related submittals with the:

Department of Army
St. Paul District, U.S. Corps of Engineers
1135 U.S. Post Office & Custom House
St. Paul, Minnesota 55101

Contact Persons:

Pursuant to the provisions of Laws of 1978, ch. 480, 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.

Gene Hollenstein or
Memos Katsoulis
Minnesota Department of Natural Resources
Division of Waters, Dam Safety Section
Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Phone (612) 296-0440
(612) 296-0442

Estimated Cost: Not to exceed \$7,500 per dam inspection.

Submission deadline: 4:30 p.m., March 2, 1979.

Interested persons may submit proposal to the above state contact persons listed.

Department of Transportation Bridges and Structures Notice of Availability of Contract for Minnesota Consulting Engineers

The Minnesota Department of Transportation requires the services of a qualified Consultant to prepare construction plans for the bridge described below.

Bridge No. 69803 — T.H. 35, Michigan Street and B.N. Inc. Tracks under T.H. 53 (Garfield Avenue)

Estimated fee range: About \$75,000

The work is anticipated to start in a few months with

STATE CONTRACTS

approximately six (6) months allowed for design and plan preparation.

The Minnesota firms will be given first consideration. Firms desiring consideration should express their interest to the Department before 4:30 p.m., February 12, 1979. Identify personnel to conduct the project and include resumes of their training and work experience.

The Bridge Contractor Selection Committee will solicit a proposal from the list of responders.

Send your response to:

K. V. Benthin
Bridge Engineer
Room 610D
Transportation Building
St. Paul, Minnesota 55155

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.



Robert T. Hickman, a Black minister, led a band of over 100 Missouri slaves to Minnesota in 1863. The group piloted a huge raft up the Mississippi River, avoiding capture by traveling only at night. Calling themselves "pilgrims," they formed Pilgrim Baptist Church in St. Paul. (Drawing by Ric James)

Department of Commerce Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Intent to Solicit Outside Opinions on Rules Relating to License Requirements for Architects; Practice of Landscape Architects; Issuance of Certificates; Repeal of Improper Solicitation of Employment and Formation of Partnerships and Retirement Status of Licensees

Notice is hereby given that the Board of Architecture, Engineering, Land Surveying and Landscape Architecture is seeking information or opinions from sources outside the Board in preparing to propose amendments to the Rules of the Board. Amendments under consideration include, but may not be limited to: amending Minn. Reg. AE&LS 9 to reduce the education and experience requirements for admission to the National Council of Architectural Registration Board Qualifying Test and Design Examination from twelve (12) to ten (10) years for non-graduates and to permit degreed candidates to be admitted to the Design Examination upon graduation from an architectural curriculum accredited by the National Architectural Accreditation Board; amending Minn. Regs. AE&LS 14, 15 and 19 to add Landscape Architects to those licensed professionals required to be in responsible charge of work performed by a partnership, corporation or other firm and to provide for the optional use of seals bearing the legend "Registered Landscape Architect"; amending Minn. Reg. AE&LS 17B to clarify the circumstances and conditions under which the Board may issue Certificates of Registration; to propose the repeal of Minn. Reg. AE&LS 12C.2. which prohibits accepting employment to replace professional and Minn. Reg. AE&LS 13 which prohibits the formation of a partnership with an unregistered person; propose the adoption of a new Rule providing for a retirement status for licensees retired from active practice. Any interested persons may submit data or views on these subjects in writing or orally to:

Lowell E. Torseth
Executive Secretary
500 Metro Square

OFFICIAL NOTICES

Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2388

Any written material received by the agency shall become part of the hearing record in the event rules governing these subjects are promulgated.

Department of Commerce Banking Division

Bulletin No. 2016: Maximum Lawful Rate of Interest for Mortgages for the Month of February, 1979

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Section 47.20, Subd. 4, Minnesota Statutes, the Conventional Home Loan Assistance and Protection Act, hereby determines that the maximum lawful rate of interest for home mortgages for the month of February, 1979, is ten and one-quarter (10.25) percent.

January 17, 1979

Robert A. Mampel
Acting Commissioner of Banks

Department of Commerce Commerce Commission

Notice of Commerce Commission Meetings

As a result of action taken by the Commerce Commission at its January 9, 1979 meeting, the Commerce Commission will meet on the second and fourth Tuesday of each month in the office of Harlee Goldstein, Executive Secretary, Fifth Floor, Metro Square Building, 7th and Robert Streets, Saint Paul, Minnesota, at 9:00 a.m. to conduct official business before the Commission. If for some reason it is necessary to delay action on pending business, a special meeting would be scheduled at the time of the regular Commerce Commission meeting so that concerned citizens who are interested in the proceedings of the Commerce Commission will be so notified.

Department of Education State Aids Section Division of School Management Services

Notice of Intent to Solicit Outside Opinion Regarding Rules for Governing Education Aids for Pupils Attending Nonpublic Schools

The Department of Education, Division of School Management Services, State Aids Section, is drafting rules to implement Laws of 1978, ch. 733 (Minn. Stat. §§ 123.931 to 123.938), which requires the State Board of Education to promulgate rules regarding educational aids for nonpublic school children. Chapter 733 requires the local districts and intermediary service areas to provide to nonpublic school children textbooks and texts, health services, and guidance and counseling services. The rules will be presented to the February State Board of Education meeting for preliminary approval prior to the hearing process.

The Department invites interested persons or groups to provide information, comment, and advice on the subject in writing or orally to Gary P. Farland, Director of State Aids, Minnesota State Department of Education, 807 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101.

Written statements will be made part of the public hearing record.

Office of the Governor

Notice of Appointment of Department Heads

Notice is hereby given of the following department head appointments made pursuant to Minn. Stat. § 15.06, subd. 2. The effective date of each appointment is listed below.

<i>Dept.</i>	<i>Name</i>	<i>Date</i>
Agriculture	Mark Seetin	Jan. 1, 1979
Transportation	Richard Braun	Jan. 1, 1979
Veterans Affairs	Donald Miller	Jan. 8, 1979

Peace Officer Standards and Training Board

Amended Notice of Hearing Regarding Proposed Rules Governing Standards of Conduct for Peace Officers and Constables

Amended Notice of Hearing

Notice of hearing regarding proposed rules governing standards of conduct for peace officers and constables, published at *State Register*, Volume 3, Number 28, pp. 1412-1413, on January 15, 1979, contained errors and omissions and is reprinted as follows:

Notice of Hearing

Notice is hereby given that public hearings in the above-entitled matter will be held on February 20, 1979 beginning at 9:30 a.m. at the Metropolitan Council, 3rd Floor, Metro Square Building, Hearings Room; on February 21, 1979 at 9:30 a.m., Department of Commerce, 5th Floor, Metro Square Building, Hearings Room; on February 22, 1979 at 7:00 p.m., Rm. 217 Lecture Center Building, Southwest State University, Marshall, MN; on March 1, 1979 at 1:30 p.m. and 7:00 p.m. at the St. Louis County Board Room, 2d Floor, 5th Avenue West at 1st Street, Duluth, MN 55802, and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Natalie Gaul, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 5 working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner. Written material submitted within the above time limits will be recorded in the hearing record.

The proposed rules regarding the standards of conduct for peace officers and constables were published at *State Register*, Volume 3, Number 28, pp. 1412-1413, on January 15, 1979.

Copies of the proposed rules will be available at the door on the date of the hearing and one free copy can now be obtained by writing to: POST Board, 5th Floor Metro

Square Building, Saint Paul, Minnesota 55101, telephone (612) 296-2620. The POST Board's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 626.84 to 626.855 (1978).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

Any person may request notification of the date on which the Hearing Examiner'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. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. 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 Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1976) as amended by Laws of 1978, ch. 463, § 11, 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 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, 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 must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-1723.

January 16, 1979

Mark K. Shields

**Department of
Transportation**

**Notice of Application and
Opportunity for Hearing
Regarding Chicago and North
Western Transportation
Company for Authority to Retire
and Remove ICC Track at
Faribault, Minnesota**

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1977 Supp.) and § 218.041, subd. 3 (10) (1977 Supp.) to retire and remove ICC Track Nos. AFE 89994A, AFE 89994B, 1, 3 and 5, 3, 6, 8, 9 and 11, including turnouts, all located in Faribault, Minnesota.

The petition recites among other matters that:

“The subject track is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. Furthermore, the City of Faribault has requested the removal of this trackage so that it may purchase the underlying land for use in the relocation of State Aid Highway 60.”

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before February 12, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties

have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

January 12, 1979

Richard P. Braun
Commissioner

**Notice of Application and
Opportunity for Hearing
Regarding Chicago and North
Western Transportation
Company for Authority to Retire
and Remove Track No. 162
Located at Worthington,
Minnesota**

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1977 Supp.) and § 218.041, subd. 3 (10) (1977 Supp.) to retire and remove approximately 827 feet of track No. 162 located at Worthington, Minnesota.

The petition recites among other matters that:

“The subject track is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future.”

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before February 12, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition

OFFICIAL NOTICES

to Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

January 12, 1979

Richard P. Braun
Commissioner

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