

84 Sept. 3

# STATE REGISTER

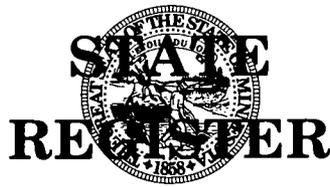
STATE OF MINNESOTA



**VOLUME 9, NUMBER 10**

**September 3, 1984**

**Pages 445-532**



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### 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     |
|------------------------------|---|--|----------------|
| <b>SCHEDULE FOR VOLUME 9</b> |   |  |                |
| 11                           | Monday Aug 27   | Friday Aug 31  | Monday Sept 10 |
| 12                           | Friday Aug 31   | Monday Sept 10   | Monday Sept 17 |
| 13                           | Monday Sept 10  | Monday Sept 17   | Monday Sept 24 |
| 14                           | Monday Sept 17  | Monday Sept 24   | Monday Oct 1   |

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

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

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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

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Rudy Perpich  
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Commissioner  
Department of Administration

Robin PanLener, Paul Hoffman  
Editorial Staff

Stephen A. Ordahl  
Director  
State Register and  
Public Documents Division

Margaret Connelly  
State Register Index Editor

Debbie Kobold  
Circulation Manager

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How to Follow State Agency Rulemaking Action in the State Register

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

The PROPOSED RULES section contains:

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

The ADOPTED RULES section contains:

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

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

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

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register and filed with the Secretary of State before July 31, 1983 are published in the Minnesota Rules 1983. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules 1983 due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

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

Table with 2 columns: Issue/Range and Issue/Range. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issues 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

The listings are arranged in the same order as the table of contents of the Minnesota Rules 1983.

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\*Note addendum to Human Rights 5000.3400-.3600 [Emer] on pg. 523.

# PROPOSED RULES

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

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

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

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

## Department of Human Services

### Proposed Emergency Rules Governing AFDC Emergency Assistance

#### Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement 1984 Minnesota Statutes, section 256.871, subdivision 7.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984, to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Dorothy Mosso  
Department of Human Services  
Space Center  
444 Lafayette Road - Fourth Floor  
St. Paul, Minnesota 55101

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency rules shall be in effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

The Aid to Families with Dependent Children (AFDC) Program provides financial assistance and services to needy dependent children and the caretakers with whom they are living to help maintain and strengthen family life and to help such caretakers attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection.

The subject areas being addressed in the emergency rule are client responsibilities, continued absence of a parent, eligibility factors for unemployed parents (AFDC-UP), stepparent allocation, employment expense deductions and disregards, and emergency assistance.

Specifically, the emergency rule on client responsibilities includes the requirement that applicants and recipients cooperate with the local county agency in providing all information to determine initial and ongoing eligibility. This includes information requested at the time of application, at the time of redetermination of eligibility, at the time a household report form is due, if a case is randomly selected for quality control review, and when a recipient has any change in income or circumstances which

may affect eligibility. The emergency rule also includes requirements and the sanctions to be imposed with regard to the regular reporting of household income.

The emergency rule having to do with the continued absence of a parent provides definitions of "absent parent," "care," "custodian," "guidance," "home," "joint legal custody," "joint physical custody," "support," and "uniformed services." The emergency rule addresses AFDC Program eligibility on the basis of an absent parent. It also addresses issues around visitation, evidence of a home and situations of shared custody, special circumstances, substitute parenting, and the return of a parent to the child's home.

The emergency rule addressing eligibility factors for unemployed parents (AFDC-UP) includes a description of an unemployed parent and the criteria to meet work quarter eligibility, including a provision for work quarter eligibility that allows for compensation for goods and/or services to be received in food, shelter, personal items, and medical care.

The emergency rule addressing stepparent allocation addresses the topics of income and how it is considered in AFDC eligibility and allowance standards, stepparent eligibility, eligibility for a single household grant, and eligibility for a combined household grant.

The emergency rule on employment expense deductions and disregards addresses self-employment expense deductions and employment disregards.

The emergency rule on emergency assistance includes the definition of terms; a statement of purpose; the application process; eligibility criteria; the types of emergencies that are covered under the program; the issuance of assistance; program limitations; the conditions under which and the amounts of emergency assistance that will be granted for mortgage arrearages, balloon payments, and utilities; agency responsibilities; client responsibilities; and a description of the appeal process.

Under the requirements of Minnesota Statutes, section 14.11, subdivision 1, the estimated increased total costs for local public bodies for Emergency Assistance, Parts 9500.0331-.0339 and Parts 9500.0351-.0353, is \$400,000 per year for fiscal years 1985 and 1986. No other parts will result in increased total cost of over \$100,000 per year for local public bodies.

A free copy of the proposed emergency rule may be obtained by contacting Dorothy Mosso, Department of Human Services, Space Center, 444 Lafayette Road, Fourth Floor, St. Paul, Minnesota 55101.

Leonard W. Levine  
Commissioner of Human Services

### **Emergency Rules as Proposed (all new material)**

#### **9500.0031 [Emergency] STATE AND FEDERAL COOPERATION.**

Notwithstanding any provisions of parts 9500.0010 to 9500.370, administration of the AFDC program in parts 9500.0051 [Emergency]; 9500.0071 [Emergency]; 9500.0081 [Emergency]; 9500.0091 [Emergency]; 9500.0111 [Emergency]; 9500.0331 to 9500.0339 [Emergency]; and 9500.0351 to 9500.0353 [Emergency] shall be subject to changes in federal or state law.

#### **9500.0051 [Emergency] CLIENT RESPONSIBILITIES.**

**Subpart 1. General information.** Applicants and recipients of AFDC shall provide all information necessary to determine initial and ongoing eligibility. This shall include information requested at the time of application, at the time a redetermination or household report form is due, and if the case is randomly selected for a quality control review. This responsibility also requires a timely report of any change in income and household circumstances which affect eligibility.

**Subp. 2. Applicant responsibility.** All applicants for assistance shall provide information necessary to determine initial eligibility. Applicants are required to verify or authorize the local agency to verify those statements on the application identified by these parts as necessary to the determination of initial eligibility. An applicant shall promptly report any changes in circumstances which may affect eligibility while his or her application is pending a determination of eligibility. The failure of an applicant to promptly provide necessary information may result in a delay in receiving initial benefits or a denial of his or her application.

**Subp. 3. Recipient responsibility.** All recipients of assistance shall provide a regular report concerning his or her household income and other circumstances of eligibility. A recipient shall report changes in income and other circumstances which may

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

## PROPOSED RULES

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affect their eligibility within ten days of their occurrence or within eight calendar days of the end of a reporting period, whichever occurs earlier. When the eighth calendar day of the month falls on a weekend or holiday, the first working day of the local agency that follows the eighth calendar day shall be established as the date on which this report is due. All recipients shall receive a monthly household report form except that quarterly household report forms shall be received when the United States Secretary of Health and Human Services waives the monthly reporting requirement or provides alternative direction for certain specified categories of recipients.

**Subp. 4. Report form.** A recipient's responsibility for completion of the required report form requires that the recipient provide a completed report form by the eighth calendar day of the month following the period covered by the form. The caretaker shall sign and date the report form no earlier than the last day of the reporting period, answer all questions necessary to determine payment eligibility, and include verification of earned income. A delay without good cause in providing a completed form must result in the following penalties:

A. if the completed form is received by the local agency after the eighth calendar day of the month following the period covered by the form, the delay in providing the completed form may also cause a delay in receiving AFDC payment in the month following the month in which the report was due; and if the report included earned income, the recipient shall lose the work expense, dependent care expense, and work incentive disregards in the payment month corresponding to the last month covered by the household report form; and

B. if the completed form is received by the local agency on or after the first day of the month following the month in which the report is due, assistance shall be terminated; if further assistance is required, a reapplication shall be required and payment eligibility shall be prorated from the date of reapplication or the date all other eligibility factors are met, whichever is later; and if reapplication is made during the initial month of termination, the client shall also be subject to the loss of all earned income disregards.

**Subp. 5. Qualifications.** The following qualifications must apply to the penalties in subpart 4:

A. If a client has earned income and submits an incomplete household report form on or prior to the eighth calendar day of the month in which the report is due, the client shall be granted an additional eight calendar days from the date that the local agency remailed the form to complete those portions related to earned income identified as incomplete. If received by the local agency on or before the eighth day, the penalties for loss of earned income disregards shall not apply.

B. If a client provides an incomplete household report form prior to the last working day of the month on which a ten-day notice of termination can be issued for failure to provide a completed household report form, the local agency shall return the incomplete form on or before the ten-day notice deadline or that termination notice shall be regarded as invalid and reapplication and proration of benefits cannot be imposed by the local agency.

C. Good cause exemptions from application of either penalty shall be granted if:

- (1) the local agency failed to accurately identify those items that were incomplete;
- (2) the receipt of the form was unduly delayed within the postal system; forms which were received by the local agency two or more agency working days after they were postmarked shall be presumed to be unduly delayed;
- (3) the employer delayed completion of employment verification;
- (4) the local agency failed to provide needed assistance to the recipient in the completion of the form;
- (5) the recipient did not receive a report for completion because of agency error or because of a reported change of address;
- (6) illness, physical or mental incapacity, or some other circumstances that could not have been avoided by the recipient through the exercise of reasonable care caused the recipient to be unable to provide a completed form in a timely manner; and these factors, singly or in combination, caused the recipient to miss the deadlines for providing a completed form.

**Subp. 6. Changes in status.** Recipients of assistance shall report all changes within ten days of their occurrence if those changes produce a change in AFDC eligibility and the occurrence of those changes precedes the eighth day following the last day of the report period in which such change occurred by ten or more calendar days. These reports shall be made in writing or in person. Failure to report these changes within ten calendar days may result in an overpayment. If the local agency could have reduced or terminated payment for one or more payment months if the delay had not occurred, a determination shall be made if a proper notice could have been issued on the day that the change occurred and each month's overpayment subsequent to that notice shall be regarded as a client error overpayment. The changes which must be reported within ten days include:

- A. initial employment;
- B. initial receipt of unearned income;
- C. any significant, recurring change in net earned or unearned income;

- D. receipt of a lump sum;
- E. resources exceeding AFDC limits;
- F. change in the physical or mental status of an incapacitated parent;
- G. change in the status of an unemployed parent;
- H. change in the status of the absent parent, change in the household composition to include departures from and returns to the home of AFDC eligible members, or change in custody;
- I. marriage or divorce of an assistance group member;
- J. death of a parent or child;
- K. change in address or residence for the assistance unit;
- L. sale, purchase, or other transfer of property; and
- M. change in school attendance for a member of the AFDC assistance unit.

All changes in circumstances which require reporting within ten days shall also be reported on the household report form for the period in which those changes occurred.

**Subp. 7. Cooperation with quality control review.** Recipients shall cooperate with the state agency's quality control review process by providing information necessary for verifying eligibility for and the amount of AFDC. Cooperation in the quality control review process is a requirement for continued eligibility and includes:

- A. agreeing to a personal interview with the quality control staff person at a mutually acceptable time and location; and
- B. assisting the quality control staff person in securing verifications necessary to establish program and payment eligibility for the month of review, provided verifications do not duplicate what is already in the case record and do not cause the recipient to incur an expense in securing those verifications.

Failure to cooperate with the quality control review process without good cause will result in termination of assistance. A person shall have good cause under this subpart if the person's refusal to cooperate stems from a diagnosis of mental illness or a physical disability or illness of such severity and duration that it precludes them from participating within the period the quality control unit has allotted to complete their review process.

#### **9500.0071 [Emergency] CONTINUED ABSENCE OF A PARENT.**

**Subpart 1. Definitions.** The definitions contained in items A through I have the meanings given them.

- A. "Absent parent" means an otherwise-eligible child's natural or adoptive father or mother who does not live at the child's home.
- B. "Care" means regular and ongoing planning and provision of services to a child, such as feeding, dressing, and cleaning.
- C. "Custodian" means the person who has the physical custody of the child at any particular time.
- D. "Guidance" means regular and ongoing planning and provision of services to the child, such as supervision, training, discipline, and help with school work on a regular basis.
- E. "Home" means the primary place of residence used by an individual as a base for day-to-day living.
- F. "Joint legal custody" means a court order under which both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.
- G. "Joint physical custody" means a court order under which the routine daily care and control of the child is shared between both parents.
- H. "Support" means financial assistance paid by the absent parent on behalf of a child which is equal to or greater than the children standard of the AFDC family allowance.

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I. "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, and National Oceanographic and Atmosphere Administration.

**Subp. 2. Eligibility.** Continued absence of a parent shall exist when the parent resides out of the home of the child and the absence interrupts or terminates the absent parent's support, care, or guidance of the child.

There is no minimum time period used to establish absence of a parent. The absence may be permanent or temporary, and a temporary absence may be of a known or indefinite duration.

Two exceptions shall apply when eligibility based on parental absence is determined:

A. Eligibility based on the absence of a parent from the home shall not exist when the parent is absent solely by reason of active duty in the uniformed services of the United States.

B. Eligibility shall exist when a parent is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday. No provision may be made for the offender's needs in computing the amount of the assistance payment.

**Subp. 3. Visitation.** Regular or sporadic visitation by an absent parent shall not constitute the provision of care or guidance.

When the frequency of the absent parent's presence in the child's home causes the local agency to question whether absence exists, the issue shall be resolved by determining whether the absent parent maintains a home apart from the home of the child.

**Subp. 4. Evidence of a home.** Evidence of a home includes, but is not limited to, where a person keeps the majority of personal belongings; the amount of time spent there as opposed to other residences; the address given to a current employer; the address given for current school registration; the mailing address for government benefits which require mailing to the current address; the address recently used to apply for credit; the address for service of legal documents; the address the individual has given to monthly creditors or utility companies as a current address; vehicle registration, driver license, or post office address which has been changed since the absence; and the frequency, type, and length of absences. Each item of evidence shall be evaluated together with other items in determining the home.

**Subp. 5. Shared custody.** This part applies to both formal and informal custody arrangements.

The language of a court order that specifies joint legal or physical custody shall not, in and of itself, preclude a determination that a parent is absent. Absence shall be determined based on the actual facts of the absence and according to this part.

A. In situations where the physical custody of a child alternates between parents from month to month, each parent may be eligible for the months the child's home is with that parent.

B. In situations where the child spends time in each of the parent's homes within a month, the child's home shall be considered that home in which the majority of the child's time is spent.

When this time is exactly equal within a month, or if the parents alternately live in the child's home within a month, the child's home shall be with that parent who is applying for assistance, unless the child's needs for the full month have already been met through the provision of AFDC to the other parent for that month.

**Subp. 6. Special circumstances.** A child shall be considered deprived of the support, care, or guidance of a parent if:

- A. paternity has not been acknowledged or adjudicated;
- B. a child has been adopted by a single parent; or
- C. a child is born from artificial insemination to an unmarried mother.

**Subp. 7. Substitute parent.** The determination of whether a child has been deprived of parental care or support by reason of the absence of a parent from the child's home shall only be made in relation to a child's natural or adoptive parent. Under this requirement, the inclusion in the home of a "substitute parent" or any other such individual is not an acceptable basis for a finding of ineligibility.

**Subp. 8. Return of parent to child's home.** When the client states that financial need exists, eligibility shall continue at the same payment level for one month following the month in which the absent parent returns home. During this period, the local agency shall inform the family about other bases of eligibility for AFDC and offer an application.

### 9500.0081 [Emergency] ELIGIBILITY FACTOR: UNEMPLOYED PARENT (AFDC-UP).

An unemployed parent is a parent:

- A. whose family is in need;
- B. whose unemployment is not the result of participation in a labor dispute;
- C. who works less than 100 hours per month or exceeds that standard for a particular month if work is intermittent and

the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for two prior months and is expected to be under the standard for the next month;

D. who has not quit or refused a bona fide offer of employment or training for employment for good cause in the last 30 days;

E. who has not been fully employed during the 30-day period preceding the receipt of AFDC-UP;

(1) when employment is less than 100 hours in the month employment is lost but was 100 or more hours in the preceding month, the last day of the preceding month shall be considered the last day of full employment; or

(2) when employment is 100 hours or more in the month employment is lost, the day employment is lost shall be considered the last day of full employment; and

(3) upon completion of the 30-day waiting period, eligibility shall be established as the day of application, the day following the last day of full employment, or the day all other eligibility factors are met, whichever is later;

F. who is currently registered with WIN or the local job service office of the Department of Economic Security and is available for training and/or employment or qualifies for an exemption from registration with WIN; when exemption from WIN registration exists, the requirement for current registration shall be met by the other parent unless that parent also qualifies for exemption from registration;

G. who has:

(1) worked at least six quarters during any 13 calendar quarter period ending within one year prior to the quarter of application for AFDC-UP; earned the equivalent of not less than \$50 per quarter during this period; under this subitem, compensation for this work may be in United States dollars or in a foreign currency which purchases goods and services equal to or exceeding \$50 in United States currency, and may be in the form of cash compensation or in the form of goods and/or services of a fair market value equivalent to \$50; alternatives to cash compensation include, but are not limited to, the fair market value of food, shelter, personal items, and medical care; and that work performed shall include the labor or services rendered, to an employer or through self-employment that was necessary to secure that compensation; that the administering authority shall ordinarily verify such employment by contacting the individuals for whom the work was performed; and that when such verification is not readily available, the administering authority shall accept a personal affidavit from the applicant as a satisfactory substitute for such verification; that cooperation in the WIN program or a community work experience program shall qualify as a quarter of work under this subitem; or

(2) received or could have qualified for unemployment compensation during the year prior to application for AFDC-UP, or could have qualified if the work performed had been covered by unemployment compensation; and

H. who has earned the greater amount of income during the 24 months immediately preceding the month of application for AFDC-UP; when there are no earnings or when earnings are identical for each parent, the applicants may designate the principal wage earner and that designation may not be transferred upon determination of eligibility.

#### **9500.0091 [Emergency] STEPPARENT.**

**Subpart 1. Income.** A stepparent is required to support his or her spouse and his or her stepchildren who reside with the stepparent. If a stepparent and natural parent do not have sufficient income to meet the needs of their common and separate children, AFDC eligibility shall exist for the natural parent and his or her separate children when all other eligibility factors are met. When two parents have a common child and at least one separate child residing with them, they may elect to seek eligibility on the basis of unemployed parent or incapacitated parent or they may elect to have the needs of the natural parents and his or her separate children met on the basis of continued absence. The local agency shall explain this option and its effects when the option is available. When there are no common children who reside with the parent and stepparent, eligibility for AFDC shall only exist on a stepparent basis.

Stepparent eligibility shall exist for:

A. A single household grant that includes the needs of the natural parent and his or her separate children. This eligibility shall be available when the natural parent and the stepparent do not have common children who reside with them; when they do have common children who reside with them and elect not to receive or do not qualify for AFDC-UP or

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AFDC-IP eligibility; or they only have separate children in residence and elect to have one parent and his or her children excluded from the AFDC grant.

B. A combined household grant that includes the needs of both parents and their separate children who reside with them. This eligibility shall be available when each parent has separate children who reside with them; any common children who reside with them are excluded from the combined stepparent grant.

**Subp. 2. Eligibility for a single household grant.** If the combined net income of the natural parent and the stepparent does not equal the combined need for both parents and their common and separate children who reside with them, as defined by AFDC payment standards, and all other eligibility factors are met, AFDC eligibility exists on the basis of need for both the natural parent and his or her separate children. A gross income test shall be applied which includes the gross income of the natural parent and the net income of the stepparent.

A. To determine the net income available to the natural parent and his or her separate children, the deductions made from the stepparent's income shall be those available to AFDC recipients with the exception of the work incentive disregard and dependent care deductions. Additionally the following deductions shall be allowed to determine the income that is available:

- (1) expenses paid in the budget month by the stepparent to persons who reside out of the home and are or could be dependents for federal tax purposes;
- (2) alimony or child support for persons who reside out of the home when those payments are paid during the budget month by the stepparent;
- (3) an allocation for the need of the stepparent at the level of the second adult AFDC payment standard; and
- (4) an allocation to the need of any common and separate children of the stepparent if they are under the age of 21; if, they reside with the natural parent and the stepparent, and if they have insufficient personal income to meet their need.

The amount of this allocation to the common and separate children of the stepparent equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

B. The net income of the stepparent, after application of these deductions, shall be considered available to the natural parent and his or her separate children in determining AFDC eligibility and payment level. If the gross income test is met, the deductions from the income of the natural parent shall include:

- (1) allowances at the AFDC level for work expenses and child care costs;
- (2) an allocation to the stepparent up to the second adult AFDC payment standard to cover the portion of the stepparent's need that is unmet after allocating the net income of the stepparent to his or her own need; and
- (3) an allocation to the need of any common children and separate children of the natural parent who are not included in the AFDC assistance unit if they:
  - (a) are under the age of 21;
  - (b) reside with the natural parent and the stepparent;
  - (c) have insufficient income to meet their needs; and
  - (d) have any portion of their need unmet after allocating the net income of the stepparent; only the unmet portion of their need is met by allocating income from the natural parent.

The amount of this allocation to the common and separate children of the natural parent that are not included in the AFDC assistance unit equals the difference between the AFDC payment standards for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

(4) If eligibility exists, a deduction shall be allowed for the work incentive disregard when eligibility for this disregard is still available; the amount of the work incentive disregard is deducted from the balance of the gross employment income of the natural parent after deductions for the work expense and the child care allowance have been made.

**Subp. 3. Eligibility for a combined household grant.** When a husband and wife each have separate children who reside with them and for whom they apply for AFDC, the needs of both parents and the separate children shall be combined into one assistance unit, and they shall receive a single grant with either parent as the payee. Eligibility for AFDC is determined by combining the gross income of the husband and wife and applying the gross income test. If eligibility exists, deductions are allowed for:

- A. a work expense against the separate gross employment incomes of the husband and wife;

B. child care expenses against the separate remaining employment income of whichever spouse's employment requires the incurrence of that expense; if both spouses incur the expense, the total expense is divided equally and deducted equally from each spouse's gross employment income;

C. an allocation for the need of any common children and separate children not included in the AFDC assistance unit, except that allocation to the need of separate children shall only be made from the income of the natural parent of those separate children, if they:

- (1) are under the age of 21;
- (2) reside with their parent and stepparent; and
- (3) have insufficient income to meet their needs.

The amount of the allocation to the common children and the separate children of the husband and wife that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

D. If eligibility exists, a deduction shall be allowed for the work incentive disregard for each parent, when eligibility for this deduction is still available; the amount of the work incentive disregard is deducted from the balance of employment income of each parent after deductions for the work expense and dependent care have been made; this allowance is then applied to the incomes of the parents that qualify for it before allocations are deducted from his or her income.

#### **9500.0111 [Emergency] EMPLOYMENT EXPENSE DEDUCTIONS AND DISREGARDS.**

**Subpart 1. Self-employment expense deductions.** The following expenses shall be deducted from self-employment income to determine gross earned income:

A. All business expenses with the following exceptions:

- (1) purchase of capital equipment and payment on the principal of loans for capital assets;
- (2) depreciation;
- (3) amortization;
- (4) the wholesale cost of items purchased, processed, or manufactured which are being carried as unsold inventory (a deduction for the cost of those items shall be allowed at the time they are sold);
- (5) transportation costs which exceed 13 cents a mile unless higher reasonable expenses in excess of those costs have been documented, and costs for mileage to and from the place of employment;
- (6) salaries and other employment deductions made for members of the AFDC assistance unit or residents of the AFDC household for whom the employer is legally responsible;
- (7) monthly expenses in excess of \$69 for each roomer, monthly expenses in excess of \$84 for each boarder, and monthly expenses in excess of \$153 for a roomer-boarder;
- (8) annual expenses in excess of \$101 or two percent of market value, whichever is less, as a deduction for upkeep and repair against rental income;
- (9) any expenses not admitted by the Internal Revenue Service for self-employment income or, if admitted, that have the effect of subsidizing business endeavors of recipients with AFDC funds.

B. Business income which is escrowed in a month for future employee FICA and employee tax withholding.

C. A 60 percent flat deduction from the gross receipts for child care performed in the recipient's home; a client may elect to have actual child care expenses, as defined in subpart 1, item A, deducted.

**Subp. 2. Employment disregards.** A deduction shall be made for all allowed disregards from the amount of gross earned income. Gross earned income is all self-employment income less any allowable business expenses as outlined in subpart 1 and all salaried income before application of mandatory and voluntary deductions, except that self-employment losses shall not be used to offset salaried earnings. The following disregards shall be deducted from gross earned income:

A. A \$75 monthly work expense, whether employment is part or full time.

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B. A monthly allowance for dependent care costs actually paid, not to exceed \$160 per dependent when employment equals or exceeds 30 hours per week or not to exceed \$159 per dependent when employment is less than 30 hours per week.

C. Subject to AFDC federal program limitations, an allowance for a \$30 and one-third work incentive for each eligible recipient. This disregard shall apply against the balance of gross earned income which remains after deductions for the work expense and dependent care have been allowed.

### 9500.0331 [Emergency] DEFINITIONS.

**Subpart 1. Scope.** The definitions in this part apply to parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency].

**Subp. 2. Applicant.** "Applicant" means an individual who submits a written request for emergency assistance.

**Subp. 3. Available resources.** "Available resources" means those assets owned by the applicant that are liquid or can be liquidated within the time necessary to avoid or promptly alleviate destitution, together with all other sources of income or of public funds for which the applicant is eligible and contributions from financially responsible relatives living in the home.

**Subp. 4. Balloon payment.** "Balloon payment" means an amount of money required to be paid on a specific date according to the terms of a contract for deed or mortgage loan agreement and that exceeds the monthly mortgage payment.

**Subp. 5. Basic need items.** "Basic need items" means subsistence items necessary for life and health, including food, safe drinking water, habitable shelter, clothing, medical care; the companion items necessary to assure these needs, including heating fuel, electricity, essential household appliances and furnishings, caregiving services to children and incapacitated adults, transportation necessary for medical care or employment, equipment or other expenses crucial for employment; and other goods or services necessary to protect a child's health and safety.

**Subp. 6. Caretaker.** "Caretaker" means a relative listed in Minnesota Statutes, section 256.12, subdivision 14, who lives with and is responsible for the care and well being of a child under the age of 21 years.

**Subp. 7. Commissioner.** "Commissioner" means the commissioner of the department of human services or his designee.

**Subp. 8. Cost effective.** "Cost effective" refers to a plan that is economical in terms of the goods or services received for the money spent.

**Subp. 9. Department.** "Department" means the Department of Human Services.

**Subp. 10. Destitution.** "Destitution" means the condition of a child who lacks a basic need item and who is without available resources to provide for that need.

**Subp. 11. Emergency.** "Emergency" means a situation or set of circumstances that causes or threatens to cause destitution.

**Subp. 12. Emergency assistance.** "Emergency assistance" means financial aid and services to, or on behalf of, a child to avoid or resolve conditions of destitution.

**Subp. 13. Family budgeting services.** "Family budgeting services" means a range of services directed toward developing a family's capacity to use its available income and resources to assure continued financial stability and provide itself with basic need items.

**Subp. 14. Habitable shelter.** "Habitable shelter" means housing that meets the health and safety standards provided under local ordinance, applicable state or federal law, and any specific criteria established by a physician as necessary to the life and health of the child.

**Subp. 15. Local agency.** "Local agency" means a county or multicounty agency that is authorized under Minnesota Statutes as the agency responsible for the administration of the emergency assistance program.

**Subp. 16. Program.** "Program" means the emergency assistance program established under Minnesota Statutes, section 256.871, Emergency Assistance to Needy Families with Children Under Age 21.

**Subp. 17. Protective payee.** "Protective payee" means a third party who receives funds on behalf of the applicant and bears responsibility for seeing that the applicant's basic needs are provided for out of those funds.

**Subp. 18. Request for assistance.** "Request for assistance" means a communication to a local agency by mail, telephone, or in person through which a person relates circumstances that indicate the potential destitution of a child. A person need not specifically request "emergency assistance."

**Subp. 19. Threatened destitution.** "Threatened destitution" means a time at which, unless an action is taken, destitution will result.

**Subp. 20. Threatened eviction.** "Threatened eviction" means any legal document or written communication that has the effect of requiring a child to vacate the home.

**Subp. 21. Utility budget period.** "Utility budget period" means a continuous 12-month period preceding the month of application, or a shorter period if the applicant has received utility service for less than 12 months. Unpaid utility bills covering a period of time in excess of 12 months shall be divided into two or more utility budget periods.

**Subp. 22. Utility costs.** "Utility costs" means charges incurred by an applicant for the provision of electrical, gas, heating fuel, water, and sanitary service.

**9500.0332 [Emergency] APPLICABILITY.**

Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] govern the administration of the emergency assistance provided through the aid to families with dependent children program. Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] define circumstances under which aid or services shall be provided, conditions of eligibility for that aid or those services, and the conditions under which local welfare agencies and the department shall operate the program.

**9500.0333 [Emergency] STATEMENT OF PURPOSE.**

The purposes of the emergency assistance program are to avoid and to prevent the destitution of children. It does so by providing payments to resolve an emergency and by providing services that prevent recurrence of destitution.

**9500.0334 [Emergency] APPLICATION PROCESS.**

**Subpart 1. Agency brochure.** The local agency shall provide by hand or by mail an application form and an informational brochure to each person who makes a request for assistance. The form and brochure shall be made available on the same day the request for assistance is received by the local agency. The brochure shall describe eligibility criteria for the program, list the emergencies for which payment of program funds may be authorized, and contain the following information:

"If a child in your family is threatened by an emergency, you may be eligible for the AFDC-emergency assistance program. If you want the local agency to help you avoid an emergency, you must make a written application with the local agency. No action will be taken regarding your situation unless you file the application form. If you file an application, a decision will be made promptly by the local agency and a written explanation of that decision will be mailed or delivered to you within one week of the date you filed the application form or you will be informed in writing within that time of the reason for the delay. You may appeal that decision to the Department of Human Services.

Any information given to you concerning your eligibility for emergency assistance before the agency has had the opportunity to review a written application form may not be accurate."

**Subp. 2. Application.** Any person may apply for emergency assistance. At the time of the application, the local agency shall explain to the applicant the program's eligibility requirements, the limitation of annual eligibility, the extent of the program's coverage, the benefits provided by other programs provided by the local agency or known to the local agency to be advantageous to the applicant's circumstances, and the rights and responsibilities of applicants for and recipients of emergency assistance.

**Subp. 3. Forms.** The application shall be made on forms prescribed by the commissioner and shall be prepared and signed by the applicant or a representative of the applicant, if that representative has been authorized in writing by the applicant or a court to act in the applicant's behalf and if that representative has knowledge of the applicant's financial circumstances.

**Subp. 4. Interview.** A personal interview shall be conducted after receipt of the application for emergency assistance. If the applicant indicates destitution is imminent or already present, the agency shall offer to conduct the personal interview on the same day that the application is received. In all other cases, the personal interview shall be conducted within a time that does not inhibit the local agency's ability to provide assistance in time to prevent destitution.

**Subp. 5. Processing application.** Applications shall be processed in a manner that considers the immediacy and severity of the destitution. The local agency shall assist applicants in completing the verification process in time to provide an eligible applicant with emergency assistance to prevent destitution. Verification shall be made promptly and by telephone whenever possible. Each local agency shall designate at least one staff person to authorize immediate issuance of emergency assistance. Issuance shall not be delayed for the purpose of securing formal action from the county board.

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**Subp. 6. Notice of eligibility.** The local agency shall provide written notice on a form prescribed by the commissioner to all applicants with regard to their eligibility for emergency assistance. The local agency's determination shall be mailed or delivered to the applicant within one week of the date the application was filed unless the applicant is informed within that time and in writing of the reason for the delay.

### **9500.0335 [Emergency] ELIGIBILITY.**

Emergency assistance shall be granted to a family that meets the following conditions:

- A. the family has a child under the age of 21 years who is, or within six months prior to application has been, living with a caretaker;
- B. the family has an emergency;
- C. the family's available resources are not sufficient to resolve the emergency; and
- D. the emergency did not arise because a caretaker or child over the age of 16 years refused employment or training for employment without good cause as defined by the Work Incentive Program.

### **9500.0336 [Emergency] COVERED EMERGENCIES.**

In accordance with parts 9500.0338 [Emergency] and 9500.0339 [Emergency], payments and services may be authorized when a child lacks, has lost, or is threatened with the loss of basic need items. The causes which produce need include evictions, condemnations, cancellation of a contract for deed, mortgage foreclosure; other relocations; return from residential treatment, long term hospitalization, incarceration or other separations of the child from the caretaker; civil disorders or strikes; fires, floods, storms, or other natural disasters; and loss or theft of funds. Payments and services may be authorized when the eligible household lacks, has lost, or is threatened with the loss of:

- A. shelter;
- B. shelter deposit;
- C. moving expenses;
- D. storage costs necessary to recover personal property;
- E. necessary home furnishings;
- F. necessary appliances, heating or cooking facilities;
- G. ability to pay for necessary home repairs;
- H. utility service;
- I. utility hookup;
- J. clothing;
- K. food;
- L. safe drinking water;
- M. necessary medical care;
- N. necessary dependent care;
- O. transportation necessary for medical care or employment;
- P. equipment or other expenses crucial to employment; and
- Q. other items necessary to the health and safety of a child.

### **9500.0337 [Emergency] FAMILY BUDGETING SERVICES.**

Each local agency shall provide a full range of family budgeting services as defined in part 9500.0331 [Emergency], subpart 13. These services shall be provided by experts in the field and shall be made available, without cost, to persons who apply for emergency assistance. The local agency may use administrative emergency assistance funds to either contract with outside experts to provide family budgeting services or provide these services itself. Agency-initiated vendor or protective payments may be used if recommended under a family budgeting plan.

### **9500.0338 [Emergency] ISSUANCE OF ASSISTANCE.**

**Subpart 1. Payments.** Emergency assistance payments may be made as direct cash payments to the applicant, vendor payments, vouchers, or protective payee payments. Where assistance is requested for employment-related expenses under part 9500.0336 [Emergency], issuance is limited to an interest-free loan of up to \$100.

**Subp. 2. Services.** Services available under the emergency assistance program include negotiation with creditors, family budgeting services, protective payee arrangements, and coordination of agency financial assistance programs with public or private resources available in the community.

**9500.0339 [Emergency] LIMITATIONS.**

**Subpart 1. 30-day period.** Emergency assistance shall be granted only for one consecutive 30-day period in one consecutive 12-month period. Needs that accrue prior to the 30-day period may be met only when necessary to resolve emergencies arising or continuing during the 30-day period of eligibility. Assistance may be extended for up to 30 days beyond the initial 30-day period of eligibility if authorized during the initial period.

**Subp. 2. Lost checks.** Emergency assistance shall not be available when uncashed AFDC checks are lost or stolen. In these cases, the lost or stolen AFDC checks shall be replaced in accordance with part 9500.0240, subpart 1.

**Subp. 3. Applicant move.** Where continued payment of shelter and utility expenses appear beyond the ability of the applicant to pay from anticipated income, the local agency may condition the issuance of emergency assistance on the requirement that the applicant move to more affordable housing as a method of preventing destitution of the child. If this requirement is imposed, the local agency must specify one or more habitable locations which are available in the community which will result in at least a 20 percent reduction in monthly expense and which shall be cost effective for the applicant. The local agency shall issue emergency assistance for expenses directly related to the relocation. In considering relocation, the local agency shall evaluate the effect of the requirement to move in terms of the size of the proposed housing and the disruption to the child which could result from the move.

**9500.0351 [Emergency] MORTGAGE ARREARAGES AND BALLOON PAYMENTS.**

**Subpart 1. Balloon payments.** Balloon payments shall be made up to a maximum issuance of six times the AFDC family allowance standard for the size and composition of the applying family. These payments shall be made only if the amount payable, combined with any payments made by the applicant, will be accepted by the creditor as full payment of the balloon and will avoid the threatened destitution.

**Subp. 2. Arrearages.** Mortgage and contract for deed arrearages shall be paid if those arrearages have caused foreclosure action to be brought against the applicant subject to part 9500.0339 [Emergency], subpart 3. In addition, the following limitations shall become effective November 1, 1984, and apply to the issuance of emergency assistance for these applicants:

A. If the applicant has paid less than 30 percent of his total gross income, in the 12 months preceding application, for house payments to include payments for principal and interest on mortgage or contract for deed payments; property taxes and special assessments (less any homestead credit paid to the applicant) homeowner's insurance, and balloon payments, no eligibility for emergency assistance shall exist. If the applicant has received emergency assistance payments against a prior foreclosure action, eligibility shall not exist if the applicant has paid less than 40 percent of his total income in the 12 months preceding application for house payments.

B. If the applicant has paid 60 percent or more of his total gross income, in the 12 months preceding application, for house payments he shall be eligible for full payment of any arrearage that exists at the time of foreclosure action. If the applicant has received emergency assistance payments against a prior foreclosure action and has paid 70 percent or more of his total income, in the 12 months preceding application, he shall be eligible for full payment of any arrearage that exists at the time of the foreclosure action.

C. If the applicant has paid at least 30 percent but less than 60 percent of his income, in the 12 months preceding application, for house payments; or if the applicant has received emergency assistance against a prior foreclosure action and has paid at least 40 percent but less than 70 percent of his income, in the 12 months preceding application, he will be eligible for emergency assistance payment according to the following:

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# PROPOSED RULES

| % OF TOTAL HOUSE PAYMENT DUE IN THE PRECEDING 12 MONTHS THAT WAS PAID BY THE APPLICANT | % OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY EMERGENCY ASSISTANCE | % OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY THE APPLICANT |
|--|--|---|
| less than 20%  | 50%  | 50%   |
| at least 20% but less than 30%   | 60%  | 40%   |
| at least 30% but less than 40%   | 70%  | 30%   |
| at least 40% but less than 50%   | 80%  | 20%   |
| at least 50% but less than 60%   | 90%  | 10%   |
| 60% or more  | 100%   | 0%  |

D. Each applicant unit that has been threatened with foreclosure action may use emergency assistance to cover a maximum of two times. Emergency assistance issued prior to the effective date of this part shall not be used for the purposes of this item.

E. No payment against an arrearage shall be paid unless there is a confirmation from the foreclosing party that the emergency assistance payment in combination with any payment of the applicant will provide reasonable assurance that a subsequent foreclosure action will not force the applicant out of his home within the next 12 months.

F. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of this part, items A, C, and D shall not apply; the applicant shall receive payment of the full unpaid balance.

**Subp. 3. Homestead requirement.** These arrearages and balloon payments may only be paid on a home occupied, maintained, and solely owned by the applicant family as its primary residence.

**Subp. 4. Arrearages and balloon payments due.** When both monthly payments are in arrears and a balloon payment is due within the next 12 months, the value of the balloon payment shall be considered in addition to the total monthly payment arrearage when assessing the applicant family's financial ability to avoid destitution at the time the balloon payment becomes due.

**Subp. 5. Applicant move.** When the applicant is found ineligible for balloon payments or arrearages under the emergency assistance program and a move is required, the local agency shall assist the family in relocating according to the provision in part 9500.0339, subpart 3.

## 9500.0352 [Emergency] UTILITIES.

**Subpart 1. Conditions of payment.** Subject to the limitations in this part, payment shall be made when an otherwise eligible family has had a termination or is threatened with a termination in electric, gas, or heating fuel service.

A. No payment shall be made from emergency assistance funds unless the local agency has received confirmation from the utility provider that payment in the amount specified as owed by the applicant satisfies the full amount of the applicant's debt to the utility, including any delinquent accounts of the applicant, and only if the total funds available from the local agency combined with the applicant's resources, either paid from present funds or obligated by the applicant under a repayment plan with the utility, will be sufficient to prevent termination of utility service.

B. Except as provided in subpart 2, item D, payment shall not be made to persons who:

(1) Effective November 1, 1984, and thereafter paid less than four percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter paid less than six percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter paid less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

**Subp. 2. Amounts of payment.** The amount paid through emergency assistance shall depend upon the percent of gross income paid toward utility costs and the percent of the total utility cost paid prior to the issuance of emergency assistance, as follows:

A. Payments of the balance owed to the utility shall be made in full when:

(1) Effective November 1, 1984, and thereafter, the applicant paid no less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter, the applicant paid no less than 12 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid no less than 16 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

B. Except as provided in subpart 2, item D, payments made from emergency assistance on the balance owed to the utility shall be limited to the amounts under Table 1 when:

(1) Effective November 1, 1984, and thereafter, the applicant paid at least four percent and less than eight percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter, the applicant paid at least six percent and less than 12 percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid at least eight percent and less than 16 percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

C. If the applicant paid the amounts indicated in subpart 2, item B, above, the local agency shall issue emergency assistance according to the following:

Table 1 : Amounts paid by emergency assistance

| % of total utility consumption cost paid by applicant prior to issuance of emergency assistance | % of the unpaid balance which will be paid by emergency assistance | % of the unpaid balance which must be paid by the applicant |
|---|--|---|
| less than 10%   | 70%  | 30%   |
| at least 10% and less than 20%  | 76%  | 24%   |
| at least 20% and less than 30%  | 82%  | 18%   |
| at least 30% and less than 40%  | 88%  | 12%   |
| at least 40% and less than 50%  | 94%  | 6%  |
| 50% or more   | 100%   | 0%  |

D. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of subpart 1, item B, and subpart 2, item B, shall not apply; the applicant shall receive payment of the full unpaid balance.

**Subp. 3. Negotiations with utility providers.** The local agency shall negotiate on behalf of the applicant eligible for reduced payments under subpart 2, item B, if the utility provider does not ordinarily offer repayment plans to its customers. If the utility provider refuses to accept the amount the agency may pay under subpart 2, item B, together with establishment of a repayment plan for the additional money owed on the balance by the applicant, the local agency shall pay nothing to the utility provider and shall assist the family in seeking an alternate provider or making alternate arrangements.

**Subp. 4. Termination of water or sanitary service.** The local agency shall pay the full amount of the unpaid balance due the utility provider.

**9500.0353 [Emergency] APPEALS.**

**Subpart 1. Right to appeal.** Each applicant shall have the right to appeal any action or failure to act with reasonable promptness on the part of the local agency relating to the application for emergency assistance. The local agency shall inform the applicant in writing of the right to appeal and the procedure to follow in filing an appeal. Within two working days after receiving a written request for an appeal, the local agency shall forward the written request and an agency appeal summary to the appeals office of the Department of Human Services.

**Subp. 2. Hearings.** The appeals office shall schedule a hearing on the earliest available date and, following the hearing, shall promptly forward the decision of the referee to the commissioner.

**Subp. 3. Decisions of the commissioner.** The commissioner shall issue a written order within five working days of receipt of the referee's decision, shall immediately provide the parties with the outcome of his decision by telephone, and shall mail the written decision to the parties no later than the second working day following the date of the commissioner's decision.

**APPLICATION.** Parts 9500.0031 to 9500.0353 [Emergency] shall be read together with permanent rules parts 9500.0010 to 9500.0370, and where these parts are in conflict, the emergency rules shall prevail until their expiration date.

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# PROPOSED RULES

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## Department of Human Services

### Proposed Emergency Rules Governing The Community Work Experience Demonstration Programs: Registration and Work Requirements

#### Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Statutes, section 256.737.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Don Gralnek  
Work and Training Unit  
Department of Human Services  
2nd Floor, Space Center Building  
444 Lafayette Road  
St. Paul, MN 55101  
Telephone: 612/296-2460

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

According to Minnesota Statutes, section 256.737, Minnesota Rules, parts 9505.1050 to 9505.1065 [Emergency] will be promulgated according to Minnesota Statutes, Chapter 14 except that the time restrictions of Minnesota Statutes, section 14.35 shall not apply and Minnesota Rules, parts 9505.1050 to 9505.1065 [Emergency] may be in effect until the termination of the demonstration programs. The planned date for termination of the demonstration programs is June 30, 1985.

Minnesota Rules, parts 9505.1050 to 9505.1065 (Emergency) establishes the rights and responsibilities of the Department of Human Services, local agencies, oversight committees, and recipients of Aid to Families with Dependent Children — Unemployed Parent (AFDC-UP) concerning registration, work sites and sanctions. This rule governs a demonstration program for AFDC-UP recipients in eight Minnesota counties (Dodge, Morrison, Wadena, Itasca, Winona, Todd, Blue Earth, and Otter Tail). The purpose of the Community Work Experience Program (CWEP) is to provide work experience and training for AFDC-UP recipients. The rule contains a definition section; lists the counties eligible for CWEP and prerequisites of operating a CWEP program; describes those AFDC-UP recipients required to participate in CWEP and the exemptions from mandatory participation; describes the length of time and number of months per year CWEP recipients are required to participate in CWEP; describes the amount of reimbursement of participant costs by the local agency and the amount of reimbursement of local agency costs by the federal government; lists the criteria for determining good cause for refusing to accept an assignment and refusing to cooperate with the assignment; prohibits displacement of public employee positions and the action the local agency and exclusive bargaining representative must take before a participant is placed in a work site assignment; lists the procedures for sanctions and appeals; describes the duties of the sponsor, convenor, and oversight committee; and makes the oversight committee subject to the Data Practices Act.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the Legislature.

A free copy of the proposed emergency rule may be obtained by contacting Linda Kildow, Work and Training Unit, Department of Human Services, Second Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, telephone: 612/297-1373.

Leonard W. Levine  
Commissioner of Human Services

**Emergency Rules as Proposed (all new material)****9505.1050 [Emergency] DEFINITIONS.**

**Subpart 1. Scope.** The terms used in parts 9505.1050 to 9505.1065 [Emergency] have the meanings given them in this part.

**Subp. 2. Aid to Families with Dependent Children-Unemployed Parent or AFDC-UP.** "Aid to Families with Dependent Children-Unemployed Parent" or "AFDC-UP" means aid to families with dependent children where the principal wage earner is unemployed.

**Subp. 3. Applicant.** "Applicant" means a person who has filed an application for AFDC-UP with the local agency.

**Subp. 4. Commissioner.** "Commissioner" means the commissioner of human services or a designee.

**Subp. 5. Community work experience program or CWEP.** "Community work experience program" or "CWEP" means the pilot demonstration program authorized under Minnesota Statutes, section 256.737.

**Subp. 6. Department.** "Department" means the Department of Human Services.

**Subp. 7. Displacement.** "Displacement" means CWEP participants doing work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1983, as defined in Minnesota Statutes, section 256.737 and Code of Federal Regulations, title 45, section 238.01.

**Subp. 8. Job placement.** "Job placement" means placement of a participant in a job which is not subsidized by private or public funds.

**Subp. 9. Local agency.** "Local agency" means the agency authorized by the county board or human service board to provide social and financial services.

**Subp. 10. Mandatory participant.** "Mandatory participant" means an individual receiving AFDC-UP who is required to participate in CWEP as a condition of AFDC-UP eligibility.

**Subp. 11. Participant.** "Participant" means recipient for whom participation in CWEP is mandatory or a recipient who has volunteered to participate in CWEP.

**Subp. 12. Recipient.** "Recipient" means a person who is currently receiving assistance under the AFDC-UP program.

**Subp. 13. Registrant.** "Registrant" means an AFDC-UP applicant or recipient who has registered with the WIN program at the job service agency.

**Subp. 14. Sponsor.** "Sponsor" means an organization, group, or agency designated by the commissioner to operate a CWEP project. Only public agencies or nonprofit groups and organizations may be sponsors.

**Subp. 15. Volunteer.** "Volunteer" means an AFDC-UP recipient whose participation in CWEP is not mandatory, but who chooses to participate and is accepted into the program.

**Subp. 16. Work Incentive Program or WIN.** "Work Incentive Program" or "WIN" means the work incentive program established in Code of Federal Regulations, title 45, section 224 which requires participation in WIN by qualified recipients of AFDC-UP.

**Subp. 17. Worksite.** "Worksite" means the place the CWEP participant is assigned to gain work experience.

**9505.1051 [Emergency] APPLICABILITY.**

Parts 9505.1050 to 9505.1065 [Emergency] establish the rights and responsibilities of the Department of Human Services, local agencies, oversight committees, and recipients of AFDC-UP concerning registration, eligibility, worksites, and sanctions for CWEP.

**9505.1052 [Emergency] PURPOSE OF CWEP.**

The purpose of CWEP is to provide work experience and training for AFDC-UP recipients.

**9505.1053 [Emergency] COUNTIES ELIGIBLE FOR CWEP.**

**Subpart 1. Eligible counties.** Only those counties that were approved by January 1, 1984, may operate a CWEP program.

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## PROPOSED RULES

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**Subp. 2. Plan proposal.** Each county that has an approved CWEP program as of January 1, 1984, must submit a written plan complying with this part to the commissioner before operation of the program can begin.

**Subp. 3. Plan content.** The plan shall include:

- A. the number of recipients expected to participate;
- B. the sponsor;
- C. a description of the potential worksites to be used and the types of positions to be used;
- D. a description of the evaluation standards the county will use; and
- E. a statement that the county will use an oversight committee.

**Subp. 4. Plan approval.** The commissioner shall approve the plan if it fulfills the purpose and requirements of law and parts 9505.1050 to 9505.1065 [Emergency.]

**Subp. 5. Plan amendment.** An amendment to a county plan must be approved by the commissioner following the same criteria as submittal of the plan.

**Subp. 6. County evaluation.** Twice a year by June 30 and December 31, each county must submit a report to the commissioner which includes:

- A. the number of recipients that participated;
- B. program and administrative costs; and
- C. the results achieved.

**Subp. 7. Termination of CWEP program.** Either the county or the department may terminate the CWEP program upon 30 days' written notice to the other.

### 9505.1054 [Emergency] RECIPIENTS REQUIRED TO PARTICIPATE IN CWEP.

**Subpart 1. General criteria.** Only recipients and not applicants may be required to participate in CWEP. Participants in CWEP continue to receive regular AFDC-UP grants. Participants are neither paid by, nor considered employees of, the worksites to which they are assigned.

**Subp. 2. Determining mandatory participation.** Mandatory participation is required of those AFDC-UP recipients who are required to register for WIN and are not exempt under this part.

**Subp. 3. Exemptions from mandatory participation.** Each AFDC-UP recipient must participate in CWEP unless the recipient:

- A. meets the exemption criteria under Code of Federal Regulations, title 45, section 238.14(a), as amended through December 31, 1983; or
- B. is 60 years of age or older; or
- C. lives more than two hours round trip travel time from the worksite, or transportation is unavailable; or
- D. is a caretaker of a child under seven; or
- E. receives social services and the local agency social worker recommends that the recipient be exempt from CWEP participation; or
- F. is in a rehabilitation program approved by the local agency; or
- G. is in need of day care which is unavailable; or
- H. is in a program or technical school which is full time; or
- I. is participating in another work program.

**Subp. 4. Disagreement with exemption determination.** Any disagreement by a recipient with a local agency's determination of exemption is governed by the notice and hearing procedures in Minnesota Statutes, section 256.045, and Code of Federal Regulations, title 45, section 205.10.

**Subp. 5. Voluntary participation in CWEP.** A county shall provide for voluntary participation in CWEP by any AFDC-UP recipient who is not in the mandatory participant group. Sanctions for noncooperation with CWEP do not apply to volunteers.

**Subp. 6. Assistance unit.** Where more than one member of an assistance unit meets the criteria for mandatory participation in CWEP, only the qualifying adult member of the unit will be required to participate.

**9505.1055 [Emergency] PARTICIPATION REQUIREMENTS.**

**Subpart 1. Type of work.** Work may be temporary, permanent, full time, part time, or seasonal as long as it does not exceed the monthly and yearly limits of this part.

**Subp. 2. Limit on hours worked per month.** The local agency shall determine the number of hours per month each participant is required to participate in CWEP. No participant shall be required to work for more hours in any given month than the number of hours which would result from dividing the family's AFDC-UP grant amount by the greater of either: the Minnesota minimum wage or the federal minimum wage; or the prevailing wage area rate established for starting workers in like occupation or industry, whichever the local agency chooses. If there is a subsequent adjustment to an AFDC-UP grant to correct an overpayment or an underpayment, the local agency shall adjust the number of hours required to be worked in a month in the next full month following the adjustment.

**Subp. 3. Limit on months worked.** No participant shall be required to work on a worksite for more than six months in any 12-month period. Any participation on a worksite for more than six months in any 12-month period is voluntary.

**Subp. 4. Job placement.** Job placement will have priority over other CWEP activities.

**Subp. 5. Participation in more than one program.** A participant who is required to participate in more than one of the programs identified in parts 9505.1050 to 9505.1065 [Emergency] will not be denied AFDC-UP assistance for failure to participate in one of the programs if that individual is an active and satisfactory participant in another program.

**Subp. 6. WIN requirements must be met.** In WIN counties applicants shall first be required to register with WIN and must have unsuccessfully searched for a job for two weeks before referral to CWEP.

**9505.1056 [Emergency] PARTICIPANT PROTECTION.**

Local agencies must provide workers' compensation coverage to participants. The cost of workers' compensation is an administrative cost which is reimbursable on the same basis as other administrative costs.

**9505.1057 [Emergency] PARTICIPANT REIMBURSEMENT.**

**Subpart 1. Local agency reimbursement of transportation and day care.** Participants may not be required to use their assistance or their income or resources to pay participation costs.

Participants shall be reimbursed by the local agency for reasonable, necessary, and cost-effective transportation and day care services. Reimbursement for day care services may not exceed \$160 per month per child. The costs of transportation and day care are administrative costs which are reimbursable on the same basis as other administrative costs.

**Subp. 2. Local agency reimbursement of other participant costs.** Participants shall also be reimbursed by the local agency for necessary costs directly related to participation in CWEP within the limits of subparts 3 and 4. These costs include but are not limited to:

- A. social services;
- B. employment related remedial medical care;
- C. employment related medical exams;
- D. vocational rehabilitation services;
- E. homemaker services;
- F. financial management aid;
- G. incentive allowances;
- H. training related expenses;
- I. nonrecurring auto repair and auto insurance expenses;
- J. payments for special work clothing, shoes, or boots which are required for the recipient to participate in a CWEP assignment;
- K. protective devices such as safety glasses, gloves, and helmets; and
- L. employment fees.

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## PROPOSED RULES

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**Subp. 3. Amount of participant cost reimbursement.** The local agency shall reimburse each CWEP participant for costs within the scope of subpart 2 not to exceed \$25 per month per participant. The local agency may choose to reimburse for such costs in excess of \$25 per month per participant.

**Subp. 4. Federal reimbursement of local agency.** Federal reimbursement will be made in the following ways:

A. In non-WIN counties the local agency will receive federal reimbursement for costs within the scope of subpart 2 in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq., which shall not exceed \$25 per month per participant.

B. In WIN counties the local agency will receive federal reimbursement for costs within the scope of subpart 2 in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq., and, in addition, 90 percent of those costs in excess of \$25 per month per participant.

C. The local agency will receive federal reimbursement for administrative costs of the program in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq.

### **9505.1058 [Emergency] GOOD CAUSE.**

The local agency shall determine whether there is good cause for a participant to refuse to accept an available assignment or to refuse to cooperate with the conditions of an assignment. A determination or recommendation by the Department of Economic Security is not binding on the local agency. Good cause exists when:

A. The recipient meets the exemption conditions in part 9505.1054 [Emergency], subpart 3.

B. The worksite participation adversely affects the recipient's physical or mental health as verified by a physician, licensed or certified psychologist, physical therapist, vocational expert, or by other sound medical evidence.

C. The recipient does not possess the skill or knowledge required for the work.

D. The CWEP assignment does not comply with the terms of the participant's employability plan as defined in Code of Federal Regulations, title 45, section 224.22(a).

### **9505.1059 [Emergency] RESTRICTIONS ON TYPE OF WORK DONE BY PARTICIPANTS.**

Work performed by participants in CWEP must comply with Code of Federal Regulations, title 45, section 238.52, as amended through December 31, 1983.

### **9505.1060 [Emergency] PROHIBITIONS AGAINST DISPLACEMENT.**

**Subpart 1. Displacement prohibited.** Local agencies shall not assign participants where such assignments displace authorized public employee positions established as of January 1, 1983. This prohibition extends to positions which were established, but vacant as of January 1, 1983. CWEP participants may perform the same tasks as performed by regular employees so long as the January 1, 1983, prohibition is not violated.

**Subp. 2. Action to be taken.** The local agency shall send written notification to the exclusive bargaining representative of the union covering the work the CWEP participant will do on the worksite at least 15 days before a CWEP participant is assigned to a worksite. The exclusive bargaining representative must concur with the job duties of the CWEP participant's worksite assignment within 15 days of notification of the proposed assignment. If concurrence is not received within 15 days, it shall be presumed that the exclusive bargaining representative has concurred in the worksite assignment.

**Subp. 3. Notification to oversight committee.** The local agency shall submit a monthly list to each oversight committee containing all worksite assignments and job placements for that county.

### **9505.1061 [Emergency] SANCTIONS AND APPEALS.**

**Subpart 1. Sanctions.** When the local agency determines that a mandatory CWEP participant has failed or refused without good cause to participate in CWEP, the following sanctions shall apply:

A. For the first occurrence the entire assistance unit shall not receive assistance for three payment months.

B. For the second and subsequent occurrences, the entire assistance unit shall not receive assistance for six payment months.

**Subp. 2. Appeals.** Each participant shall have the right to appeal any determination, action, or inaction on the part of the local agency relating to their participation in CWEP according to the welfare hearing procedures in Minnesota Statutes, section 256.045.

### **9505.1062 [Emergency] SPONSORS.**

**Subpart 1. Sponsor.** The commissioner may approve the operation of more than one project by a single sponsor. The sponsor may use only public agencies and nonprofit organizations for worksites, but no state hospital shall be used for worksites.

**Subp. 2. Duties of sponsor.** The duties of a sponsor are to:

A. Assist CWEP participants in a job search before they are assigned to a worksite. The job search must be conducted for at least three days. The job search assistance period is in addition to any other job search the participant might have done before CWEP.

B. Allow the CWEP participant at least one day per week to search for work. This day may, at local agency option, count as eight hours of authorized CWEP work.

C. Select a convenor, cooperate with the oversight committee, use the forms the department designs for CWEP, and provide other data requested by the department.

**9505.1063 [Emergency] CONVENOR.**

**Subpart 1. Definition.** For the purposes of parts 9505.1050 to 9505.1065 [Emergency], "convenor" means a person selected by the sponsor from a CWEP project area.

**Subp. 2. Convenor duties.** The convenor's duties shall include contacting representatives of the interest groups listed in items A to F in order to solicit approval of submission of their names to the commissioner as potential members of the oversight committee. The convenor shall chair the first oversight committee meeting, and shall ensure that a permanent chairperson is elected at the first meeting of the oversight committee. The list of names submitted to the commissioner must include at least one representative of each of the following interests groups:

- A. AFDC-UP recipients;
- B. women's groups;
- C. public employee unions;
- D. legal services representatives;
- E. members of the business community; and
- F. the general public with specific effort to include minority group representatives.

The people listed must live in the county served by their CWEP project. The only exception to this requirement is representatives of legal services.

**9505.1064 [Emergency] OVERSIGHT COMMITTEE.**

**Subpart 1. Appointment.** The commissioner shall appoint an oversight committee for each project which will consist of six or more members. Every effort will be made to include at least one member from each of the interest groups listed in part 9505.1063 [Emergency], subpart 2. The list of potential members submitted by the convenor shall serve as a guide to the commissioner. The commissioner may ask the convenor or the local agency for additional names. The commissioner may appoint persons not included on the lists.

**Subp. 2. Duties.** The duties of the oversight committee are to:

- A. meet quarterly;
- B. provide informal, nonbinding conciliation hearings for aggrieved CWEP participants to resolve conflicts before resorting to welfare hearing procedures;
- C. provide a forum for CWEP participants and the public to voice concerns;
- D. review evaluations of the program made by the department and make recommendations to the commissioner;
- E. make the names of committee members available to CWEP participants; and
- F. visit worksites to inquire about complaints.

**Subp. 3. Hearing procedures.** This part shall not take precedence over the welfare fair hearing procedures of Minnesota Statutes, section 256.045.

**9505.1065 [Emergency] CLASSIFICATION OF DATA ON PARTICIPANTS.**

The oversight committee is a member of the human service system and shall comply with Minnesota Statutes, section 13.46.

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# PROPOSED RULES

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## Department of Human Services

### Proposed Emergency Rules Governing County Board Responsibility for Providing Case Management Services to Persons with Mental Retardation

#### Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Laws of Minnesota, Chapter 312, Article 9.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Susan Canine  
Department of Human Services  
4th Floor, Centennial Office Building  
St. Paul, MN 55155

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency rules shall be in effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

The purpose of proposed Minnesota Rules, parts 9525.0015 to 9525.0145 [Emergency] is to set forth the responsibilities of county boards for providing case management services to persons with or who may have mental retardation, and governs the planning, development and provision of other services to persons with mental retardation.

Proposed Minnesota Rules, parts 9525.0015 to 9525.0145 [Emergency] apply to county boards expending federal or state funds for case management or other services for persons with or who might have mental retardation.

Proposed Minnesota Rules, parts 9525.0015 to 9525.0145 [Emergency] include sections on county board responsibilities, case management responsibilities, diagnosis of mental retardation, assessment of individual service needs, individual service plan, screening teams, development of individual habilitation plans, appeals of case management and related services, quality assurance, county plan, service development and need determination and enforcement.

The Department estimates that the cost of implementing these emergency rules will not exceed \$100,000 per year for local public bodies for the two years immediately following their adoption within the meaning of Minnesota Statutes, section 14.11, subdivision 1.

A free copy of the proposed emergency rule may be obtained by contacting Susan Canine at 612/297-1241.

Leonard W. Levine  
Commissioner of Human Services

**Proposed Emergency Rules (all new material)****9525.0015 [Emergency] DEFINITIONS.**

**Subpart 1. Scope.** The terms used in parts 9525.0015 to 9525.0145 [Emergency] have the meanings given them in this part.

**Subp. 2. Assessment.** "Assessment" means the act of determining a person's need for services and by identifying and describing the person's skills and behaviors, and the environmental, physical, and medical factors which affect development or remediation of the person's skills and behaviors under part 9525.0065 [Emergency].

**Subp. 3. Advocate.** "Advocate" means an individual who has been authorized in a written, notarized statement by the person with or who might have mental retardation or by that person's legally responsible person to help the person with or who might have mental retardation understand and make choices in matters related to identification of needs and choice of services in parts 9525.0015 to 9525.0145 [Emergency].

Private or confidential data regarding the person with or who might have mental retardation must not be disseminated to or used by the person's advocate unless the person with or who might have mental retardation or the legally responsible person has given informed consent for dissemination to or use by the advocate in accordance with Minnesota Statutes, section 13.05, subdivision 4.

**Subp. 4. Case management services.** "Case management services" means identifying the need for, seeking out, acquiring, authorizing, and coordinating the delivery of services by an individual designated by the county board to provide case management services under part 9525.0045 [Emergency].

**Subp. 5. Case manager.** "Case manager" means the individual designated by the county board under part 9525.0035 [Emergency] to provide case management services.

**Subp. 6. Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

**Subp. 7. Community social services plan.** "Community social services plan" means the plan required by Minnesota Statutes, section 256E.09.

**Subp. 8. Contract.** "Contract" means a legally enforceable agreement entered into by a county board and a provider, or a provider and a subcontractor, that sets forth the rights and responsibilities of the parties.

**Subp. 9. County board.** "County board" means the county board of commissioners for the county of financial responsibility or its designated representative.

**Subp. 10. County of financial responsibility.** "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256B.02, subdivision 3.

**Subp. 11. Day training and habilitation services.** "Day training and habilitation services" means health and social services provided to a person with mental retardation at a site other than the person's place of residence by a licensed provider. The services must be designed to result in the development and maintenance of life skills, including: self-care; communication; mobility; community living; behavior management; and therapeutic work. Day training and habilitation services are provided on a scheduled basis for periods of less than 24 hours each day.

**Subp. 12. Department.** "Department" means the Minnesota Department of Human Services.

**Subp. 13. Home and community-based services.** "Home and community-based services" means the following services for persons with mental retardation authorized under United States Code, title 42, sections 1396 to 1396p, and authorized in the waiver granted by the Department of Health and Human Services:

- A. case management;
- B. respite care;
- C. homemaker services;
- D. in-home family support services;
- E. supported living arrangements for children;
- F. supported living arrangements for adults;

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## PROPOSED RULES

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G. day habilitation; and

H. minor physical adaptations to the home as defined in part 9525.1860 [Emergency].

**Subp. 14. Host county.** "Host county" means the county in which the services set forth in a person's individual service plan are provided.

**Subp. 15. Intermediate care facility for the mentally retarded or ICF/MR.** "Intermediate care facility for the mentally retarded" or "ICF/MR" means a program licensed to provide services to persons with mental retardation under Minnesota Statutes, section 252.28, and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which together are certified by the Minnesota Department of Health as an intermediate care facility for the mentally retarded. Unless otherwise stated, this definition includes state-operated and community-based facilities.

**Subp. 16. Individual habilitation plan.** "Individual habilitation plan" means the written plan for providing services to a person developed under part 9525.0095 [Emergency].

**Subp. 17. Individual service plan.** "Individual service plan" means the written plan developed under part 9525.0075 [Emergency] that specifies the services needed by a person.

**Subp. 18. Interdisciplinary team.** "Interdisciplinary team" means the case manager, the person with mental retardation, the legally responsible person and the person's advocate, if any, and representatives of all providers providing services set forth in the individual service plan meeting together to develop and periodically review an individual habilitation plan under part 9525.0095 [Emergency]. The case manager may invite other persons to join the interdisciplinary team as the case manager determines necessary.

**Subp. 19. Least restrictive environment.** "Least restrictive environment" means an environment in which:

A. Employees or subcontractors of the provider are available to provide the type, quantity, and frequency of services necessary to achieve the results set forth in a person's individual service plan.

B. The physical plant and the scheduling of employees or subcontractors of the provider are designed or modified to promote the independence of the person with mental retardation and to limit the physical assistance given by employees or subcontractors to the tasks or parts of tasks that the person with mental retardation could not accomplish without physical assistance.

C. The amount of supervision and physical control exercised by employees or subcontractors of the provider is limited to the level required to ensure that persons with mental retardation are not subject to unnecessary risks to their health or safety and do not subject others to unnecessary risks.

D. Services are designed to increase interactions between persons with mental retardation and persons who do not have disabilities by using facilities, services, and conveyances used by the general public.

E. The daily, monthly, and annual schedule of the person receiving services closely approximates that of the general public.

F. The physical surroundings, methods of interaction between the provider's employees and subcontractors, and the materials used in training are the same as those that would be used with a person without mental retardation of the same chronological age.

**Subp. 20. Legally responsible person.** "Legally responsible person" means the parent or parents of a person, with or who might have mental retardation, under 21 years of age or a court-appointed guardian for a person, with or who might have mental retardation, of any age.

**Subp. 21. Need determination.** "Need determination" means the commissioner's determination under part 9525.0135 [Emergency] of the need for and the program, type, location, and size of licensed residential and day training and habilitation services, except foster care, for persons with mental retardation.

**Subp. 22. Person with mental retardation.** "Person with mental retardation" means:

A. A person who has been diagnosed under part 9525.0055 [Emergency] as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and that are manifested before the person's 22nd birthday.

B. A person under 18 years of age who demonstrates significantly subaverage intellectual functioning concurrently with deficits in adaptive behavior, but for whom a licensed psychologist or licensed consulting psychologist determines that a diagnosis may not be advisable because of the person's age.

C. A person 18 years of age or older who has not been diagnosed as a person with mental retardation before the person's 22nd birthday and who, as the result of accident or physical trauma (excluding mental illness, chemical dependency,

senility, and debilitating conditions such as muscular dystrophy and multiple sclerosis), has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior and, who requires services similar to those required by a person with mental retardation.

**Subp. 23. Person who might have mental retardation.** "Person who might have mental retardation" means a person undergoing diagnosis to determine if that person is a person with mental retardation.

**Subp. 24. Physical plant.** "Physical plant" means the building or buildings in which a service is provided to a person with mental retardation and all equipment affixed to the building and not easily subject to transfer.

**Subp. 25. Provider.** "Provider" means a corporation, governmental unit, partnership, individual, or individuals licensed by the state, if a license is required, or approved by the county board, if a license is not required, to provide one or more services to persons with mental retardation.

**Subp. 26. Public agency.** "Public agency" means a public health nursing service established under Minnesota Statutes, section 145.12, a human services board established under Minnesota Statutes, section 402.04, a local board of health established under Minnesota Statutes, section 145.01, or a county board.

**Subp. 27. Qualified mental retardation professional.** "Qualified mental retardation professional" means an individual who meets the qualifications in the Code of Federal Regulations, title 42, section 442.401.

**Subp. 28. Quarterly evaluation.** "Quarterly evaluation" means a concise written summary evaluating the services actually provided, the extent to which services have resulted in achieving the goals and objectives of a person's individual habilitation plan, and whether services are being provided in accordance with the individual habilitation plan.

**Subp. 29. Redetermination of need.** "Redetermination of need" means the commissioner's biennial redetermination under part 9525.0135 [Emergency] of the need for and the program, type, location, and size of licensed residential or day training and habilitation services, except foster care, for persons with mental retardation.

**Subp. 30. Regional service specialist.** "Regional service specialist" means an individual designated by the commissioner to:

- A. authorize medical assistance payments for ICF/MR and home and community-based services for persons with mental retardation;
- B. serve on screening teams as a qualified mental retardation professional;
- C. provide training and assistance to county boards, case managers, and providers in technical matters related to the development and provision of services for persons with mental retardation; and
- D. assist case managers in developing and planning services for persons with mental retardation.

**Subp. 31. Residential service.** "Residential service" means shelter, food, and training in self-care, communication, community living skills, social skills, leisure and recreation skills, and behavior management provided by a provider licensed by the state, if a license is required, or approved by the county board if a license is not required, to provide these services.

**Subp. 32. Screening team.** "Screening team" has the definition given it in Minnesota Statutes, section 256B.092.

**Subp. 33. Service.** "Service" means a planned activity designed to achieve the results specified in an individual service plan.

**9525.0025 [Emergency] APPLICABILITY.**

Parts 9525.0015 to 9525.0145 [Emergency] set forth the responsibilities of county boards for providing case management services to persons with or who might have mental retardation, and governs the planning, development, and provision of other services to persons with mental retardation.

All federal and state money allocated to county boards for case management and other services for persons with or who might have mental retardation must be expended in accordance with parts 9525.0015 to 9525.0145 [Emergency].

**9525.0035 [Emergency] COUNTY BOARD RESPONSIBILITIES.**

**Subpart 1. Provision of case management services.** The county board shall provide case management services in accordance with parts 9525.0015 to 9525.0145 [Emergency] to all persons with or who might have mental retardation who are residents of or reside in the county at the time they request or are referred for services and who are in need of services. Case management services may be provided directly by the county board or under a contract between the county board and another county board or a provider of case management services.

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## PROPOSED RULES

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**Subp. 2. Designation of case manager.** Within five working days after receiving a request or referral for service, the county board shall designate a case manager for the person who requested or was referred for services. Within five working days after designating a case manager, the county board shall send a written notification of the name, telephone number, and location of the designated case manager to the person who requested or was referred for services, or the legally responsible person, and the advocate, if any.

**Subp. 3. Qualifications of case manager.** Each case manager must have at least the qualifications in items A and B.

A. Each case manager hired after December 31, 1984, shall meet the requirements for a qualified mental retardation professional or have a bachelor's degree in a field related to the education and treatment of persons with mental retardation and at least one year of experience in the education and treatment of persons with mental retardation.

B. In addition to the qualifications in item A, each case manager shall complete at least 20 hours of training and continuing education in case management and mental retardation services each calendar year. The county board shall maintain a written record of all training and continuing education completed by all case managers employed by the county board.

**Subp. 4. Purchase of case management services.** The county board shall not purchase case management services for a person with or who might have mental retardation from a provider of other services for that person. This provision does not apply when the county board provides the services or when the services are provided by another public agency and the conditions in items A and B are satisfied.

A. The county board or other public agency providing case management and other services ensures that administration of the case management services is separate from the administration of any other service for persons with mental retardation.

B. The county board has notified the commissioner that the county board has entered into a contract with another public agency for case management services.

**Subp. 5. Termination of case management services.** The county board may terminate case management services when:

A. the person with mental retardation or the legally responsible person makes a written request that services be terminated;

B. the person with mental retardation dies; or

C. a licensed psychologist or licensed consulting psychologist determines that the person is not a person with mental retardation.

### **9525.0045 [Emergency] CASE MANAGEMENT RESPONSIBILITIES.**

**Subpart 1. Provision of services.** The case manager, upon designation by the county board, shall immediately begin to provide case management services to the person who requested or was referred for services, and shall continue to provide case management services until case management services are terminated under part 9525.0035 [Emergency], subpart 5. The county board shall not provide or arrange for services to be provided to a person with or who might have mental retardation until a case manager has been designated, and services must not continue after case management services have been terminated under part 9525.0035 [Emergency], subpart 5.

**Subp. 2. Minimum case management services.** The case manager shall:

A. ensure that a diagnosis is completed in accordance with part 9525.0055 [Emergency]. The diagnosis must be completed within 35 working days following the date that the person requested or was referred for services;

B. provide or obtain an assessment of individual service needs under part 9525.0065 [Emergency] if the person is diagnosed as a person with mental retardation;

C. develop an individual service plan under part 9525.0075 [Emergency] based on the assessment completed in item B;

D. convene a screening team under part 9525.0085 [Emergency] if the case manager determines, based on the results of the assessment, that the person might be in need of the level of care provided by an ICF/MR, or that the person will require that level of care within one year;

E. ensure that the services described in the individual service plan are provided in the type, quantity, and frequency specified in the individual service plan; and

F. monitor services provided to the person with mental retardation by:

(1) visiting the person at least once every 90 days;

(2) conducting on-site visits when the services are being provided, reviewing the provider's records and reports, and observing the implementation of the person's individual habilitation plan; and

(3) compiling quarterly evaluations of the results of services provided under the individual service plan.

**Subp. 3. Duties of case manager.** The case manager has the following duties which must not be delegated:

A. Before a service may be provided under an individual service plan the case manager must authorize the service. The case manager shall not authorize services other than those set forth in a person's individual service plan, except in an emergency and then only for the duration of the emergency. If an emergency occurs, the case manager shall, within ten working days, review the individual service plan and the cause of the emergency to determine whether the individual service plan should be modified as a result of the emergency. Modifications to the individual service plan must be made in accordance with part 9525.0075 [Emergency], subpart 5.

B. The case manager shall periodically, but at least every 90 days, review implementation of contracts for services and report to the host county board if the provider is not in compliance with the terms of the contracts.

C. The case manager shall terminate services if an annual review of the person's individual service plan indicates that the services are no longer needed.

D. The case manager shall serve as chairperson of the interdisciplinary and screening teams.

A case manager retains the duties in items A to D until the responsibility of the county board is terminated under part 9525.0035 [Emergency], subpart 5, or until the county board designates another case manager under part 9525.0035 [Emergency], subpart 2. When another case manager is designated, the person with mental retardation, the legally responsible person and the advocate, if any, and all providers providing services to the person must be notified, in writing, of the name, telephone number, and location of the new case manager within five working days.

**9525.0055 [Emergency] DIAGNOSIS.**

**Subpart 1. Initial diagnosis.** The following is required to make a diagnosis of mental retardation:

A. A licensed psychologist or licensed consulting psychologist must determine that the person has significantly subaverage intellectual functioning. "Significantly subaverage" means performance which is two or more standard deviations from the mean or average of a standardized test that measures intellectual functioning.

B. A licensed psychologist or licensed consulting psychologist must determine that the person has deficits in adaptive behavior. Deficits in adaptive behavior must be determined through the use of scales of adaptive behavior, or by a combination of test data, observations, and the use of all available sources of information regarding the person's behavior which indicate the effectiveness or degree with which the person meets the norm of personal independence and social responsibilities of the person's chronological age group and cultural peer group.

C. A medical examination conducted by a licensed physician including examination of vision, hearing, seizure disorders, and physical disabilities.

D. A written report, by a social worker who is experienced in working with persons with mental retardation, on any social or familial factors that might have contributed to the person's mental retardation.

The documentation for items A to D must be dated no more than 90 days before the date when the individual service plan is written.

**Subp. 2. Review of diagnosis.** Except as provided in subpart 3 the case manager shall conduct a review of the diagnosis at least every three years. This review must include a review of the documentation of the initial diagnosis in subpart 1, and any components in subpart 1, items A to D, that the case manager determines need to be reevaluated. The case manager shall provide or obtain any assessments required to complete review of the diagnosis.

**Subp. 3. Exception.** If a person with mental retardation has been receiving services specified in the person's individual service plan for a period of ten or more consecutive years since the person's 18th birthday, and has an initial diagnosis of mental retardation which has been confirmed twice, the review of the diagnosis required in this part shall be conducted at least every six years.

**9525.0065 [Emergency] ASSESSMENT OF INDIVIDUAL SERVICE NEEDS.**

**Subpart 1. Assessment.** Each person diagnosed as a person with mental retardation under part 9525.0055 [Emergency] shall receive an assessment to determine the person's need for service. The assessment must be conducted under the supervision of a qualified mental retardation professional.

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The assessment of individual service needs must include the following areas:

- A. medical status;
- B. physical development;
- C. intellectual functioning;
- D. social skills;
- E. self-care skills;
- F. communication skills;
- G. community living skills;
- H. vocational skills; and
- I. the person's physical and social environments.

Data collected by conducting assessments in items A to I may be supplemented by data from individuals who know the person with mental retardation and other sources.

**Subp. 2. Reassessment.** Annually, the case manager, the person with mental retardation, the legally responsible person, and the person's advocate, if any, shall determine which of the areas in subpart 1 should be reassessed. The case manager shall provide or obtain a reassessment of the person's need for services in those areas. The case manager shall also obtain an evaluation of the person's medical status by a licensed physician to be used in the annual reassessment. The medical evaluation must be conducted no more than 90 days before the date of the annual individual service plan review conducted under part 9525.0075 [Emergency].

The annual reassessment of the person's need for service must be completed at least ten days before the date of the annual individual service plan review under part 9525.0075 [Emergency].

### **9525.0075 [Emergency] INDIVIDUAL SERVICE PLAN.**

**Subpart 1. Standards for developing individual service plan.** An individual service plan must be developed and implemented for each person with mental retardation who requests or is referred for services. The services specified in the individual service plan must be based on an assessment of the individual's need for services under part 9525.0065 [Emergency]. The individual service plan must be developed in conformance with the following standards:

- A. the plan must specify how food, shelter, and health care will be provided;
- B. the plan must provide for delivery of services in the least restrictive environment;
- C. the plan must be designed to result in vocational training and, to the extent possible, employment and increased financial independence;
- D. the plan must be designed to result in increased access to the community and interactions with the general public through use of community services; and
- E. the plan must be designed to involve family, neighbors, and friends in providing services to the extent possible.

**Subp. 2. Development of individual service plan.** The case manager shall develop the individual service plan in consultation with the person with mental retardation and the person's parent or guardian, and the person's advocate, if any.

The documentation used in developing the individual service plan must include:

- A. the results of the diagnosis conducted under part 9525.0055 [Emergency];
- B. the results of the assessment conducted under part 9525.0065 [Emergency]; and
- C. any other information compiled by the case manager that will assist in developing the individual service plan.

**Subp. 3. Content of individual service plan.** The individual service plan must:

- A. describe the results of all assessment information used to identify the person's need for services;
- B. state the long-range goals of each service and an anticipated date for attainment of those goals;
- C. state the annual goals including the expected results of each service that are related to attainment of the long-range goals stated under item B;
- D. identify the type, amount, and frequency of services needed by the person with mental retardation to achieve the annual goals stated under item C. The services needed must be identified without regard to the current availability of the services;

- E. state the methods that will be used to develop or obtain the services identified in item D;
- F. identify any information that providers must submit to the case manager and the frequency with which the information must be provided; and
- G. identify the payment sources for the services identified in item D.

**Subp. 4. Standards for state hospital discharge planning.** When an individual service plan calls for the discharge of a person with mental retardation from a state hospital, the individual service plan must conform to the standards for state hospital discharge planning established by the commissioner.

**Subp. 5. Annual review of individual service plan.** At least annually, the case manager shall convene a meeting to review the individual service plan to determine whether the results called for in the plan have been achieved and to determine if the plan requires modifications. The case manager shall make every effort to convene the meeting at a time and place which allows for participation by the person with mental retardation, the person's parent or guardian, the advocate, if any, and others who participated in the development of the individual service plan. Any modifications to the individual service plan must be based on the results of a review of quarterly evaluations; reassessment information compiled under part 9525.0065 [Emergency], subpart 2; and any other information compiled by the case manager for the annual individual service plan review. The results must be completed and compiled no more than 90 days and no less than ten days before the date of the annual individual service plan review.

**9525.0085 [Emergency] SCREENING TEAMS.**

**Subpart 1. Convening screening team.** The case manager shall convene a screening team if the assessment conducted under part 9525.0065 [Emergency] indicates that a person with mental retardation might need the level of services provided by an ICF/MR or if the assessment finds that the person might need an ICF/MR within one year. A screening team must be convened within 15 working days of the date that an individual service plan is developed under part 9525.0075 [Emergency].

The case manager shall convene a screening team within five working days of the date of an emergency admission to an ICF/MR.

The case manager may convene a screening team at the time that the individual service plan is developed.

The case manager shall make every effort to convene the screening team at a time and place which allows for participation by all members of the screening team. The case manager shall maintain a written record of the screening team meetings. The written record must list all persons in attendance. If a member of the screening team is unable to attend the screening team meeting, the written record must state the reasons for the member's absence from the meeting.

**Subp. 2. Composition of screening team.** The screening team shall be composed of:

- A. the case manager;
- B. the person with mental retardation;
- C. the person's parent or guardian; and
- D. a qualified mental retardation professional who has been designated by the commissioner and who is not a provider of services to the person with mental retardation.

The case manager shall notify the regional services specialist and the person with mental retardation's advocate of all screening team meetings. The regional services specialist and the advocate may attend any meeting of the screening team. Other persons may attend the screening team meeting at the discretion of the case manager.

**Subp. 3. Screening team's review.** The screening team must review:

- A. the results of the diagnosis conducted under part 9525.0055 [Emergency];
- B. the results of the assessment conducted under part 9525.0065 [Emergency];
- C. the individual service plan; and
- D. other data related to the person's eligibility and need for home and community-based services.

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**Subp. 4. Screening team findings.** Upon review of the diagnostic and assessment data under subpart 3, the screening team shall:

- A. determine whether the person with mental retardation is presently in need of an ICF/MR, or that the person will need an ICF/MR within one year and can benefit from home and community-based services;
- B. identify the other services required to prevent or delay the need for ICF/MR, skilled nursing facility, or intermediate care facility services and the source of payments for the required assistance or social services; and
- C. complete the waived services screening document on the form provided by the commissioner.

**Subp. 5. Consumer choice.** The person with mental retardation who is eligible for home and community-based services under parts 9525.1800 to 9525.1930 [Emergency] and the person's parent or guardian must be allowed to choose between the ICF/MR services and the home and community-based services recommended by the screening team.

**Subp. 6. Regional service specialist authorization of ICF/MR and home and community-based services.** Upon completion of the waived services screening document, the case manager must forward the completed document to the regional service specialist. ICF/MR services shall not be provided unless the services have been authorized in writing by the commissioner through the regional service specialist. Home and community-based services must be authorized under parts 9525.1800 to 9525.1930 [Emergency].

**Subp. 7. Use of screening team recommendations in commitment proceedings.** When a person with mental retardation who has been referred to a screening team is the subject of commitment proceedings pursuant to Minnesota Statutes, chapter 253B, the screening team must make its recommendations and report available to the prepetition screening unit, if the court so orders.

### **9525.0095 [Emergency] DEVELOPMENT OF INDIVIDUAL HABILITATION PLANS.**

**Subpart 1. Arrangement of services.** When residential or day training and habilitation services or home and community-based services are required by an individual service plan, the case manager shall seek out, acquire, authorize, and coordinate the service. The services must not be provided to a person with mental retardation unless authorized by the case manager. The case manager may arrange for services by surveying existing providers to determine which providers, if any, are available to provide the services specified in the individual service plan, or with approval of the county board, the case manager may develop and issue a request for proposals to provide any or all of the specified services.

**Subp. 2. Authorization of services.** The case manager may authorize a service only if:

- A. the case manager has determined that the provider is able to provide the service or services in accordance with the individual service plan;
- B. the provider agrees in writing to participate in the interdisciplinary team;
- C. the provider agrees in writing to provide the service in accordance with the individual service plan;
- D. the person with mental retardation has met with the provider and visited the site where the services are to be provided;
- E. the case manager has informed the legally responsible person and the advocate of the person with mental retardation of the names of the proposed providers and has encouraged them to visit the sites where the services will be provided;
- F. there is a contract between the provider and the host county; and
- G. if services are to be provided in a county other than the county of financial responsibility, the case manager has consulted with the host county and has received concurrence from the host county regarding provision of services.

**Subp. 3. Contracts for services.** A provider must have a contract with the host county before the provider can receive payment for services. The department is a third party beneficiary of any contract entered into by a county board and a provider, or a provider and a subcontractor, to provide services under this part. The contract must contain at least items A to M.

- A. the maximum and minimum number of persons to be served;
- B. the types of sites where services are to be delivered;
- C. the qualifications of persons who will provide the services, including proof of licensing or certification if licensing or certification is required by state laws or federal regulations;
- D. a description of the services to be provided;
- E. an agreement to provide services in accordance with each person's individual habilitation plan in order to achieve the goals specified in the person's individual service plan;

- F. a statement incorporating in the contract the individual service plan for each person served;
- G. the rate to be charged for providing services;
- H. a description of the county board contract monitoring procedures agreed to by the provider, including the frequency of monitoring;
  - I. the starting and ending dates of the contract;
  - J. an itemized list of any program and financial records, other than the program and financial records required under Minnesota Statutes or Minnesota Rules, to be maintained by the provider;
  - K. the name of the person responsible for ensuring that the provider is in compliance with the data practices in Minnesota Statutes, section 13.46, subdivision 10, paragraph (d);
  - L. a statement that the case manager is authorized to terminate the contract in accordance with parts 9525.0035, [Emergency], subpart 5 and 9525.0045 [Emergency], subpart 3; and
  - M. an agreement that the provider will allow the commissioner and the case manager access to the provider's physical plant and program and financial records on request by the commissioner or the case manager.

Each contract and subcontract must contain the following provision. If any contract does not contain the following provision, the provision shall be considered an implied provision of the contract.

"The provider acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as such is an affected party under this contract. The provider specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or sue the provider for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance of all or any part of the contract between the county and the provider. The provider specifically acknowledges that the county and the Minnesota Department of Human Services are entitled to and may recover from the provider reasonable attorney's fees and costs and disbursements associated with any action taken under this paragraph. This provision shall not be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity."

**Subp. 4. Subcontracts.** If the provider subcontracts with another contractor the provider shall:

- A. have written permission from the host county to subcontract;
- B. ensure that the subcontract meets all the requirements in subpart 3; and
- C. ensure that the subcontractor performs fully the terms of the subcontract.

**Subp. 5. Enforcement of contracts.** The county board shall enforce the contracts entered into under parts 9525.0015 to 9525.0145 [Emergency]. The county board may delegate the responsibility for enforcement of contracts to the case manager.

**Subp. 6. Convening of interdisciplinary team.** Within 30 days after the case manager authorizes services under subpart 2, the case manager shall convene the interdisciplinary team to design an individual habilitation plan.

**Subp. 7. Review of data.** The interdisciplinary team shall review:

- A. the results of the diagnosis conducted under part 9525.0055 [Emergency];
- B. the results of the assessment conducted under part 9525.0065 [Emergency];
- C. the individual service plan developed under part 9525.0075 [Emergency];
- D. the report and recommendations of the screening team; and
- E. any other information related to the delivery of services in the individual service plan and the development of the individual habilitation plan.

**Subp. 8. Individual habilitation plan.** The interdisciplinary team shall develop an individual habilitation plan that integrates the services provided by all providers and subcontractors to the person with mental retardation and ensures that the services provided and the methods used by each provider and subcontractor are coordinated and compatible with those of every other provider and subcontractor to achieve the overall results of the individual service plan. The plan must include:

- A. short-term objectives designed to result in the achievement of the annual goals of the individual service plan;

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B. the specific method of providing the service that is expected to result in the achievement of the short-term objectives of the individual habilitation plan;

C. the name of the provider's employee responsible for ensuring that services are implemented as set forth in the individual habilitation plan and that the services result in achievement of the short-term objectives;

D. the measurable behavioral criteria that will be used to determine whether the services have resulted in achievement of the short-term objectives;

E. the frequency with which service will be provided; and

F. the starting date and completion date for each short-term objective.

**Subp. 9. Interim services.** A person with mental retardation may receive the services set forth in the person's individual service plan for up to 22 working days while an individual habilitation plan is being developed. The case manager shall terminate the services if an individual habilitation plan is not developed and implemented within 22 working days of the date that the person began receiving services specified in the individual service plan.

**Subp. 10. Review of individual habilitation plan.** Every 90 days the case manager shall participate with each provider in a quarterly evaluation by visiting the person with mental retardation, observing the services at a time when they are being implemented, and reviewing reports and data gathered by each provider. At least annually, the interdisciplinary team must be convened by the case manager to review the data described in subpart 7, determine if the results set forth in the individual habilitation plan have been achieved, and to make any amendments or modifications of the plan based on the interdisciplinary team's review of the information.

### 9525.0105 [Emergency] APPEALS OF CASE MANAGEMENT AND RELATED SERVICES.

**Subpart 1. Notification of right to appeal.** The case manager must notify the person with mental retardation, or the legally responsible person, and the advocate, if any, in writing, of the person's right to appeal. The notice must be written in terms which can be understood by the person or the legally responsible person and the advocate.

**Subp. 2. Appealable issues.** A person with mental retardation or the legally responsible person may appeal the issues in items A and B under Minnesota Statutes, section 256.045. The person with mental retardation or the legally responsible person may appeal items C and D under part 9500.0860. All appeals must be submitted in writing to the local welfare referee or, if the county does not have a local welfare referee, to the commissioner.

A. failure of the county board to provide case management services in accordance with part 9525.0035 [Emergency];

B. failure of the county board or case manager to act within the time limitations in part 9525.0045 [Emergency]; and

C. conduct of the diagnosis required in part 9525.0055 [Emergency]; and

D. determination by the screening team that the person does not and will not within one year require the level of care provided in an ICF/MR.

### 9525.0115 [Emergency] QUALITY ASSURANCE.

The county board must cooperate with the commissioner in the commissioner's evaluation of case management services by making available to the commissioner all information compiled under parts 9525.0015 to 9525.0145 [Emergency] requested by the commissioner.

### 9525.0125 [Emergency] COUNTY PLAN.

**Subpart 1. County plan.** The county board's plan for services for persons with mental retardation must be developed as a part of the county's community social services plan under Minnesota Statutes, section 256E.09.

**Subp. 2. Plan content and documentation.** In addition to the plan content required by Minnesota Statutes, section 256E.09, the county's community social services plan must:

A. identify all providers in the county that are used by the county board to provide services for persons with mental retardation;

B. identify services in other counties which are used by the county board to provide services to persons for whom the county board is financially responsible;

C. identify specific services which are needed by persons with mental retardation, for whom the county is financially responsible, but which are not available to those persons;

D. project an estimate of the services that will be needed by persons with mental retardation who are residing at state hospitals during the two-year period covered by the community social services plan; and

E. project an estimate of the county's use of state hospitals by persons with mental retardation for whom the county board is financially responsible during the two-year period covered by the community social services plan.

Items A to E must be based on needs assessment data and other information compiled from individual service plans and other needs assessment data.

**9525.0135 [Emergency] SERVICE DEVELOPMENT AND NEED DETERMINATION.**

**Subpart 1. Definition.** As used in this part, "county board" means the county board of commissioners or the county welfare board as defined in Minnesota Statutes, chapter 393.

**Subp. 2. Data base for service development.** Development of a new service or modifications or expansion of an existing service must be based on the county's community social services plan and additional needs assessment data, including the needs for services identified in individual service plans of persons with mental retardation for whom the county board is financially responsible. The county board shall also consider the service needs of persons from other counties for whom the county board has agreed to be the host county.

**Subp. 3. Need determination by county board.** The county board shall determine the need for new services or modification or expansion of existing services for any service licensed by the commissioner, except foster care.

If the county board determines that a new service is needed or that the existing services need to be modified or expanded, the county board shall submit an application for a need determination to the commissioner. The application must include items A to I:

- A. the number, sex, and age of the persons to be served;
- B. a description of the services needed by the persons to be served as identified in individual service plans;
- C. a description of the proposed service;
- D. if the proposal is for a residential service, a description of the day training and habilitation or educational services that are available outside of the residence for the persons to be served;
- E. a description of the current residences of persons to be served and a statement of the number of persons to be served from each residential facility, foster home, or parental home;
- F. the identity of other counties that will use the service;
- G. a description of any financial limitations or funding restrictions that will affect the proposed service;
- H. an explanation of how this application relates to service needs identified under subpart 2; and
- I. the date of the county board action on the application.

**Subp. 4. Need determination.** The commissioner shall make the determination of the need for and the location, program, type, and size of the proposed service in the county application. The commissioner may determine need for the service on a local, regional, or statewide basis. The commissioner shall consider the following factors in making a final need determination:

- A. the need to protect persons with mental retardation from violations of their human and civil rights;
- B. the need to assure that persons with mental retardation receive the full range of social, financial, and habilitative services specified as needed in their individual service plans;
- C. whether services will be carried out in the least restrictive environment, and that the size of the service must relate to the needs of the persons to be served;
- D. whether persons receiving the proposed service will use medical, psychological, therapeutic, and other support services that are used by the general public;
- E. whether cost projections for the service are within the fiscal limitations of the state;
- F. whether the application is consistent with the state's plans for service distribution and development; and
- G. the distribution of and access to the services throughout the state.

**Subp. 5. Notice of decision and right to appeal.** Within 30 days of receipt of the application for need determination from the county board, the commissioner shall notify the county board of the commissioner's decision. The notice of the

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commissioner's decision must include notification of the county board's right to appeal the decision under subpart 8.

**Subp. 6. Biennial redetermination of need.** Each provider of a service licensed by the commissioner, except foster care, shall submit to the county board of the county where the service is located a request for a redetermination of need. The request must be submitted at the time specified by the county board, but at least every 24 months.

Within 30 days of receipt from a provider, the county board shall forward to the commissioner a letter with respect to the continued need for the service. The letter must state whether the county board recommends continuation, continuation with modifications, discontinuation of the service, or decertification of ICF/MR services. The recommendations of the county board must be based on the service needs of persons with mental retardation for whom the county is financially responsible, and for persons from other counties for whom the county board has agreed to serve as host county, which are documented in the county's community social services plan.

The commissioner shall make the final redetermination of need for the service after considering the factors in subpart 3, and the recommendations of the county board. The commissioner shall notify the county board of the decision within 30 days of receipt of the county board's letter of recommendation.

**Subp. 7. Effect of need determination or redetermination.** If the county board or the commissioner determines that the service, modification, or expansion is not needed, the service, modification, or expansion shall not be paid for or reimbursed from federal or state money identified in part 9525.0025 [Emergency]. If the determination or redetermination is appealed, the effect of this provision may be stayed pending the outcome of the appeal.

**Subp. 8. Appeal of commissioner's need determination or redetermination.** Determination or redetermination of need may be appealed by the county board in accordance with Minnesota Statutes, chapter 14. Notice of appeal must be received by the commissioner within 30 days after the notification of the commissioner's decision was sent to the county.

## **9525.0145 [Emergency] ENFORCEMENT.**

If the commissioner has reasonable grounds to believe that a county board has not complied with or is failing to comply with parts 9525.0015 to 9525.0135 [Emergency], the commissioner may issue a written order requiring the county board to comply. The county board shall comply with the order. If the county board disagrees with the commissioner's order, the county board may appeal the decision to the commissioner and request reconsideration. To be reconsidered, the appeal must be filed in writing with the commissioner within ten working days of the date that the commissioner issued the order. The appeal must state the reasons why the county board is appealing the commissioner's order and present evidence explaining why the county board disagrees with the commissioner's order. The commissioner shall review the evidence presented in the county board's appeal and send written notification to the county board of the decision on the appeal. The commissioner's decision on the appeal is final.

**REPEALER.** Minnesota Rules, parts 9525.0010 to 9525.0100, are repealed.

**APPLICATION.** Notwithstanding any rule or law to the contrary, upon expiration of parts 9525.0015 to 9525.0145 [Emergency], permanent parts 9525.0010 to 9525.0100, are reinstated.

## **Department of Human Services**

### **Proposed Emergency Rules Governing General Assistance**

#### **Notice of Intent to Adopt Emergency Rules**

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Laws 1983, Chapter 312, Article 8, subdivision 7.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Debra Flanagan  
Rulemaking Unit  
Department of Human Services  
Fourth Floor  
Space Center Building  
444 Lafayette Road  
St. Paul, MN 55101

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency rules shall be in effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Minnesota Rules, part 9555.3417 establishes a system for screening and referring General Assistance applicants and recipients to other maintenance benefit programs. Special services are offered to assist General Assistance applicants and recipients in establishing eligibility for other maintenance benefit programs. The proposed emergency rule also provides for interim assistance reimbursement to qualified providers who assist General Assistance applicants and recipients in obtaining benefits from other programs.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the Legislature.

A free copy of the proposed emergency rule may be obtained by contacting Mike Sirovy, Policy Development, Department of Human Services, Second Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, 612/297-2011.

Leonard W. Levine  
Commissioner of Human Services

### **Emergency Rule as Proposed (all new material)**

#### **9555.3417 [Emergency] GENERAL ASSISTANCE.**

**Subpart 1. Definitions.** The terms used in this part have the meanings given them.

A. The definitions in part 9555.3400 [Emergency] apply to this part.

B. "Initial SSI payment" means the first payment of benefits made for an SSI recipient which includes any retroactive amounts due to the SSI recipient for the period in which eligibility was being determined.

C. "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the local agency for the amount of general assistance provided to him or her by the local agency during the period in which eligibility for another maintenance benefit program was being determined. The agreement shall require reimbursement to the local agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

D. "Interim funds" means the total amount of general assistance provided during the period in which the general assistance recipient was also eligible for SSI.

E. "Other maintenance benefits" means maintenance benefits provided under law or rule pertaining to workers' compensation, unemployment compensation, railroad retirement, veteran's disability benefits, supplemental security income, social security disability insurance, or other benefits identified by the local agency for which the applicant or recipient is potentially eligible.

F. "Potentially eligible" means that the local agency has determined that the applicant or recipient appears to meet the eligibility requirements of another maintenance benefit program.

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G. A "qualified provider" means the local agency, or:

- (1) a nonprofit legal assistance organization;
- (2) an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy.
- (3) another organization or person, including private attorneys at law, determined by the local agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

H. "SSI" means the supplemental security income program administered by the Social Security Administration.

**Subp. 2. Applicability.** This part establishes the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance concerning application for maintenance benefits from other sources, execution of an interim assistance authorization agreement, provision of special services to assist the applicant or recipient in applying for other maintenance benefits, and reimbursement of interim assistance and reimbursement for provision of special services. This part shall be read together and with parts 9555.3400 to 9555.3410 [Emergency] and 9500.0500 to 9500.0610. To the extent that this part conflicts with parts 9555.3400 to 9555.3410 [Emergency] or 9500.0500 to 9500.0610, this part shall prevail.

**Subp. 3. Screening requirement.** The local agency shall screen general assistance applicants or recipients in the following manner:

A. The department shall provide each local agency with initial training and information concerning other maintenance benefit programs. Following the initial training, the local agency shall determine the potential eligibility of each general assistance applicant or recipient for maintenance benefits from other sources. If the local agency determines that the person is potentially eligible for another maintenance benefit, the local agency shall inform the person of his or her rights and responsibilities in accordance with subpart 4. The determination of a general assistance applicant's potential eligibility for other maintenance benefits shall be made when application for general assistance is made. The determination of a general assistance recipient's potential eligibility for other maintenance benefits shall be made no later than the semi-annual redetermination of eligibility for general assistance, or when the local agency determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits, whichever is earlier.

B. The results of the determination made by the local agency as in item A must be documented on forms prescribed by the commissioner and be retained in the local agency case record for each general assistance applicant or recipient.

C. A recipient who has been determined by the local agency to be potentially eligible for another maintenance benefit, and who has applied and has been found ineligible for that other maintenance benefit program, shall not be required to apply again for that other maintenance benefit program unless one of the following conditions is met:

- (1) the local agency determines that the applicant's or recipient's health or other circumstance has changed and the change may result in eligibility for that other maintenance benefit program; or
- (2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

**Subp. 4. Informing requirement.** Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall provide the applicant or recipient with written and oral information concerning all of the following:

A. The requirement that the applicant or recipient apply for the other maintenance benefit program in subpart 6, item A.

B. The requirement, if applicable, to execute an interim assistance authorization agreement provided for in subpart 6, item H.

C. The requirement to comply with those procedures necessary for the determination of eligibility or ineligibility for the other maintenance benefit program in subpart 6, item F.

D. The requirement to authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with another maintenance benefit program office as in subpart 6, item C.

E. The type and estimated amount of benefits available from the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

F. The known eligibility requirements of the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

G. Where to make application for the other maintenance benefit program for which the general assistance applicant or recipient has been determined to be potentially eligible.

H. How to apply for the other maintenance benefit program for which the general assistance applicant or recipient has been determined to be potentially eligible.

I. The availability of special services described in subpart 9 to assist the applicant or recipient in applying for SSI benefits, and the applicant's or recipient's right to choose either the local agency or another qualified provider of the special services.

J. Notice of the actions to be taken if the applicant or recipient fails to comply with subpart 6, items A, C, F, and H.

K. Notice of the applicant's or recipient's right to appeal the determination of ineligibility for general assistance due to noncompliance with subpart 6, items A, C, F, and H.

**Subp. 5. Referral requirement.** The local agency shall refer applicants or recipients to other maintenance benefit programs as follows:

A. Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall refer the applicant or recipient to that other maintenance benefit program. The referral must be made on forms prescribed by the commissioner.

B. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall offer to the applicant or recipient the special services needed to assist him or her in applying for and obtaining SSI as in subpart 9, and shall furnish him or her with a list of qualified providers.

C. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall refer him or her to the Social Security Administration local office to apply for SSI benefits. If the applicant or recipient elects to receive the special services in subpart 9 from a qualified provider other than the local agency, the local agency shall enter into a contract with that qualified provider for special assistance to the applicant or recipient in applying for and obtaining SSI.

D. Upon referral as in item C, the local agency shall promptly notify the Social Security Administration local office of the date of referral so that the local agency may determine the earliest potential date of eligibility for SSI for recovery of interim funds.

**Subp. 6. Actions required of applicants or recipients.** Applicants or recipients must comply with the following:

A. An applicant or recipient who has been referred as in subpart 5, item A or C, must apply within 30 days of the date of referral for the other maintenance benefit programs for which he or she has been determined to be potentially eligible.

B. If verification is not available from the recipient, the local agency must contact the other maintenance benefit program local office to determine if the recipient has applied for benefits within the time period specified in item A. If the other maintenance benefit local office verifies that the recipient applied for those benefits within the time period specified in item A, the requirement to apply has been met.

C. An applicant or recipient who is referred to another maintenance benefit program as in subpart 5, item A or C, shall authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with that other maintenance benefit program office.

D. For purposes of exchanging private or confidential information about a person for whom a qualified provider has contracted to provide special services, the qualified provider shall be considered part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1.

E. If the other maintenance benefit program local office verifies that the recipient has not applied for those benefits within the time period specified in item A, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

F. A recipient who has been referred as in subpart 5, item A or C must comply with those procedures necessary for the determination of eligibility or ineligibility for another maintenance benefit program.

G. If the local agency determines that the recipient has not complied with those procedures necessary for the determination of eligibility for maintenance benefits from another source, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

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H. An applicant or recipient who has been referred as in subpart 5, item A or C, must execute an interim assistance authorization agreement, if applicable, within 30 days of the date of referral.

I. If the recipient fails to complete an interim assistance authorization agreement within the time period specified in item H, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

J. If, for reasons beyond his or her control, a recipient is unable to comply with the requirements of item A, C, F, or H, the recipient must inform the local agency of his or her inability to comply within 30 days of the date of referral. The local agency must attempt to resolve the circumstances which prevent the recipient from complying with the requirements. If the local agency and the recipient are unable to resolve the circumstances, the client shall be found to have good cause for failure to comply with the requirements.

**Subp. 7. Ineligibility.** The following conditions govern termination of general assistance eligibility for persons who, without good cause as in subpart 6, item J, do not comply with the requirements of subpart 6.

A. A recipient who, without good cause as in subpart 6, item J, fails to comply with the requirements of subpart 6, shall be found ineligible for general assistance. The local agency shall notify the recipient of its intent to terminate eligibility for general assistance at least 30 days before reducing, suspending, or terminating the grant due to the recipient's failure to comply with subpart 6. The notice must:

- (1) be in writing on a form prescribed by the commissioner;
- (2) be mailed or given to the recipient not later than 30 days before the effective date of the action;
- (3) clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued should the recipient file an appeal; and
- (4) state the requirements which the recipient must comply with in order to end the period of ineligibility; and
- (5) notify the recipient of the continued availability of special assistance as in subpart 9.

B. Upon notification as in item A, the local agency shall offer the recipient assistance to meet the requirements.

C. The period of ineligibility shall begin on the first day of the first calendar month following the 30-day period specified in item A and shall continue until the person fulfills the requirements of subpart 6. If the ineligible person subsequently applies for general assistance, the application shall be denied unless the requirements of subpart 6 are met.

D. If the person is determined to be ineligible under item A, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

E. If the recipient complies with subpart 6 within the 30 days specified in item A, no period of ineligibility shall be imposed.

**Subp. 8. Appeals.** A recipient who is determined ineligible for general assistance under subpart 7 may appeal the determination. The appeal must be a written request for a hearing submitted to the department or to the local agency under Minnesota Statutes, section 256.045. If the recipient appeals on or before the effective date of the notice of ineligibility for general assistance under subpart 7, item A, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance. If the appeal is denied, the amount of general assistance paid to the recipient during the appeal process shall be recoverable from the recipient or his or her estate by the county or the state as a debt due the county or state or both in proportion to the contribution of each.

**Subp. 9. Special services.** Special services which assist a general assistance applicant or recipient to obtain SSI benefits for which reimbursement may be claimed under subpart 10 or 11 are:

- A. additional explanation or counseling regarding application for and the benefits available through the SSI program;
- B. assistance in completion of the application for SSI and arranging appointments related to application for SSI;
- C. assistance to the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues which may arise during the SSI eligibility determination process;
- D. provision of currently available medical, social, or vocational evidence which may substantiate the presence and severity of blindness or disability;
- E. assistance in obtaining and using additional medical, social, or vocational evidence or expert testimony and assisting the applicant or recipient in cooperating with the Social Security Administration and its agents, procedures, and requirements;
- F. assistance with necessary transportation;

G. preparation for and representation at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security Administration's determination of ineligibility for SSI;

H. if a local agency, developing a contractual agreement with the qualified provider chosen by the applicant or recipient; and

I. other services to assist the person in establishing eligibility for SSI benefits.

**Subp. 10. Reimbursement for interim assistance and special services.** Procedure for reimbursement for interim assistance and special services is as follows:

A. Upon determining SSI eligibility for a person who has completed an interim assistance authorization agreement, the Social Security Administration forwards the initial SSI payment to the local agency. Within ten days of receipt of the initial SSI payment, the local agency shall disburse to the recipient the difference between the initial SSI payment and the total amount of general assistance provided during the period for which the initial SSI payment is made. From the interim funds available, the local agency:

(1) shall retain 25 percent of the general assistance paid to the assistance unit based on state assistance standards plus any excess paid to the assistance unit above the state assistance standard;

(2) may retain, for provision of special services which result in the recipient being determined eligible for SSI, an additional 25 percent of the general assistance paid to the assistance unit based on state assistance standards. Such special services must include the provisions of subpart 9, items A to D; and

(3) may retain, in addition to the amounts claimed in subitems (1) and (2), reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 9 which result in the recipient being determined eligible for SSI.

B. The amount retained by the local agency as reimbursement for the provision of special services to an applicant or recipient shall not exceed the amount of interim funds available.

C. The balance of the interim funds which are not retained by the local agency or paid to a qualified provider as reimbursed for the provision of special services as in item A, subitems (2) and (3), shall be forwarded promptly to the Department of Human Services.

D. The local agency must document its own costs and costs incurred by qualified providers in providing the special services. If the local agency provides the special services, reimbursement of administrative costs shall be claimed only for the direct costs of the special service provision. The amount retained shall not exceed the reasonable actual cost of providing the special services.

**Subp. 11. Reimbursement to qualified providers under contract to provide special services.** Qualified providers of special services are reimbursed in the following manner:

A. The local agency shall by contract reimburse a qualified provider for the reasonable actual costs, fees, and disbursements related to appeals and litigation and provision of the special services to a recipient as provided in subpart 9 if the local agency has received the initial SSI payment for that recipient.

B. In order to receive reimbursement for the costs, fees, and disbursements related to appeals and litigation and the provision of special services which assist a general assistance applicant or recipient to apply for and obtain SSI benefits, the qualified provider shall enter into a contract with the local agency and must provide one or more of the special services specified in subpart 9. A qualified provider shall not be reimbursed for any part of his or her costs, fees, or disbursements unless the local agency has received the initial payment from SSI for the recipient served.

A qualified provider under contract with the local agency shall not receive reimbursement for services in excess of \$75 per hour. A qualified provider shall not require prepayment of any costs, fees, or disbursements from the applicant or recipient, and shall agree that the reimbursement received under contract with the local agency constitutes full and complete payment for all services rendered. When the qualified provider requests reimbursement from the local agency for the services provided under contract, the qualified provider must document the total number of hours of services provided to the recipient.

C. When one or more qualified providers have provided special services to a recipient, the total reimbursement made to the qualified providers shall not exceed the amount of interim funds retained by the local agency as in subpart 10, item

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A, subitems (2) and (3) unless the excess is expressly authorized under contract and provided only with local agency funds.

D. If more than one qualified provider provides the special services in subpart 9 to an applicant or recipient, the reimbursement to each qualified provider for his costs, fees, and disbursements shall be the amount derived by multiplying the total amount of interim funds retained by the local agency as in subpart 10, item A, subitems (2) and (3) by the qualified provider's reimbursement percentage. The qualified provider's reimbursement percentage is determined by dividing each qualified provider's total number of hours of special services by the total number of hours of special services provided by the local agency and all other qualified providers under contract who have served the applicant or recipient.

E. The services in subpart 9, when provided during the six-month period prior to an application for general assistance, shall be reimbursed if the local agency determines that the services contributed substantially to the applicant's or recipient's obtaining SSI benefits. The reimbursement shall be made only if interim funds remain after reimbursement for services rendered subsequent to the application for general assistance.

F. If the applicant or recipient and the local agency agree to terminate a contract with a qualified provider, the contract for special services for that applicant or recipient shall be terminated.

G. The local agency and a qualified provider may agree through contract to jointly provide the special services of subpart 9.

## Department of Human Services

### Proposed Emergency Rules Governing Medical Assistance Prepaid Demonstration Project

#### Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Statutes, sections 256.991 and 256B.69 to 256B.70.

Persons interested in these rules have until 4:30 on September 28, 1984 to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Robert G. Meyer  
Department of Human Services  
Bureau of Income Maintenance  
Health Care Programs Division  
Office of New Initiatives  
444 Lafayette Road  
St. Paul, MN 55101  
Telephone: 612/297-2670

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the attorney general will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by Minnesota Statutes, sections 14.29 to 14.36 and 256.991, these emergency rules shall be in effect for up to 360 days following their adoption and may be continued in effect for an additional 900 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The emergency rules shall not be effective beyond December 31, 1986 without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Minnesota Rules, Parts 9500.1450 to 9500.1474 [Emergency] establishes a demonstration project to determine whether or not public expenditures for medical assistance can be better controlled while ensuring that all participants receive necessary health care in a coordinated fashion by implementing a budgeted, prepaid reimbursement system. Part 9500.1451 [Emergency] lists the waivers of provisions under Title XIX of the Federal Social Security Act for implementation of the

project, and establishes the rights and responsibilities of the Department of Human Services, county welfare boards, providers of services, and recipients of medical assistance participation in the demonstration project. Parts 9500.1452 to 9500.1460 [Emergency] establishes eligibility factors and free choice of providers for recipients. Parts 9500.1461 to 9500.1469 [Emergency] establishes planning, record keeping, utilization control and covered services provisions. Parts 9500.1470 to 9500.1474 [Emergency] establishes capitation policies, provider criteria, documentation and interagency coordination provisions.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the Legislature.

A free copy of the proposed emergency rule may be obtained by contacting Robert G. Meyer, Department of Human Services, Bureau of Income Maintenance, Health Care Programs Division, Office of New Initiatives, 444 Lafayette Road, St. Paul, MN 55101.

Leonard W. Levine  
Commissioner of Human Services

### **Emergency Rules as Proposed (all new material)**

#### **9500.1450 [Emergency] DEFINITIONS.**

**Subpart 1. Scope.** The terms used in parts 9500.1450 to 9500.1473 [Emergency] have the meanings given them in this part.

**Subp. 2. Broker.** "Broker" means an organization contracted with the Department of Human Services to develop and present to consumers educational material on the MAPDP so that consumers shall understand the choices available to them.

**Subp. 3. Case management.** "Case management" means a method of health care provision in which one individual or organization coordinates the provision of all health care services to a consumer.

**Subp. 4. Consumer.** "Consumer" means an individual receiving medical assistance through one of the designated participant counties.

**Subp. 5. MAPDP.** "MAPDP" means the medical assistance prepaid demonstration project.

**Subp. 6. Medicaid health plan (MHP) or umbrella organization.** "Medicaid health plan (MHP)" or "umbrella organization" means the organization contracting with the Department of Human Services to provide all of the services currently available under medical assistance to consumers in exchange for a prepaid capitation payment.

**Subp. 7. Personal care attendant.** "Personal care attendant" means a provider of personal care services to a medical assistance client which are prescribed by a physician and supervised by a registered nurse. A personal care attendant may not be a relative or family member of the medical assistance client and must be enrolled with the Department of Human Services as a medical assistance provider.

#### **9500.1451 [Emergency] INTRODUCTION.**

**Subpart 1. Scope.** Parts 9500.1450 to 9500.1475 [Emergency] govern administration of the medical assistance prepaid demonstration project (MAPDP) in Minnesota. Parts 9500.1450 to 9500.1475 [Emergency] shall be read in conjunction with title XIX of the federal Social Security Act; Code of Federal Regulations, title 42; Minnesota Statutes, chapter 256B; and rules promulgated thereunder, which govern the administration of the title XIX program and MAPDP in Minnesota.

A. For the purposes of the MAPDP, the state of Minnesota has received, under authority title XIX of the Social Security Act, section 1115(a)(1) and its implementing regulations, the following waivers of provisions:

(1) to enable the state to implement the program which would not be in effect throughout the state, as provided by the Social Security Act, section 1902(a)(1) and Code of Federal Regulations, title 42, section 431.50;

(2) to enable the state to restrict freedom of choice of provider, as provided by the Social Security Act, section 1902(a)(23) and Code of Federal Regulations, title 42, section 431.51;

(3) to enable the state to impose cost sharing on mandatory services, as provided by the Social Security Act, section 1902(a)(14) and Code of Federal Regulations, title 42, sections 447.50 to 447.58; and

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(4) to allow for the release of information to brokers, as provided by the Social Security Act, section 1902(a)(7) and Code of Federal Regulations, title 42, section 431.306.

B. Expenditures to provide Medicaid to individuals which would otherwise be excluded by virtue of the Social Security Act, section 1903(i)(3) or 1903(m), will be regarded as expenditures under the state's title XIX plan for the duration of MAPDP.

**Subp. 2. Purpose.** The MAPDP shall be administered to determine if public expenditures for the medical assistance program can be better planned, utilized, and controlled while ensuring that all participants receive necessary health care in a coordinated fashion by implementing a budgeted, prepaid reimbursement system.

**Subp. 3. Civil rights.** The MAPDP shall not be administered to deny applicants and participants their individual and civil rights, nor to disclose information regarding them except as provided under Minnesota Statutes, sections 13.01 to 13.73, and 13.75.

**Subp. 4. Jurisdiction.** Parts 9500.1450 to 9500.1475 [Emergency] are binding on participating county welfare boards, providers of services participating in MAPDP, and medical assistance recipients participating in MAPDP as designated by the commissioner of the Department of Human Services.

**Subp. 5. References.** Parts 9500.1450 to 9500.1475 [Emergency] specifically include by reference any federal laws or regulations or state laws pertaining to the Minnesota medical assistance prepaid demonstration project, and any provision of parts 9500.1450 to 9500.1475 [Emergency] which is inconsistent with those laws is superseded by those laws.

### **9500.1452 [Emergency] APPLICATION PROCESS.**

An applicant for MAPDP shall follow the procedures in part 9500.0770.

### **9500.1453 [Emergency]— ELIGIBILITY FACTORS.**

The applicant shall meet the eligibility standards in parts 9500.0780 to 9500.0860, as amended.

### **9500.1454 [Emergency] ADDITIONAL ELIGIBILITY FACTORS.**

**Subpart 1. Continuing spend-down.** Only individuals meeting continuing spend-down criteria, as provided by part 9500.0810, subpart 10, shall be eligible for MAPDP. No other individual subject to the spend-down requirement of part 9500.0810, subpart 10, shall be eligible for MAPDP.

**Subp. 2. Personal care attendants.** Persons receiving the services of a personal care attendant shall not be eligible for MAPDP.

### **9500.1450 [Emergency] TERMINATION OF MEDICAL ASSISTANCE THROUGH MAPDP.**

MAPDP terminations must be effected according to part 9500.0860.

### **9500.1460 [Emergency] FREE CHOICE OF PROVIDER.**

Under MAPDP, consumers shall choose among the Medicaid health plans offering a health plan in their county. At the Medicaid health plan, a case manager responsible for the coordination of an individual's health care shall assist the consumer in planning his or her health care and in choosing among the providers offered by the Medicaid health plan. The county government in Dakota and Itasca counties, being the sole Medicaid health plan in its respective county, shall ensure access and choice for consumers by including a majority of providers in the county in its Medicaid health plan.

### **9500.1461 [Emergency] COUNTY MAPDP PLAN.**

The counties shall administer MAPDP according to part 9500.0910.

### **9500.1462 [Emergency] ACCURATE FILE.**

The county shall be responsible for an accurate file and shall provide the information required in part 9500.0920.

### **9500.1463 [Emergency] RECORDS.**

The state and local welfare agencies and all medical providers shall maintain medical and fiscal records as required in part 9500.0930.

### **9500.1464 [Emergency] THIRD-PARTY LIABILITY.**

Duties of a state and local agency with respect to third-party liability shall be as required in part 9500.0940.

### **9500.1465 [Emergency] IDENTIFICATION OF RECIPIENTS.**

A Medicaid health plan shall provide a means to identify recipients enrolled in its program which best suits its normal procedures of operation.

**9500.1466 [Emergency] PROVIDER AGREEMENTS AND QUALIFICATIONS.**

Providers shall execute an agreement and be eligible for MAPDP under part 9500.0960 and 9500.0970.

**9500.1467 [Emergency] UTILIZATION CONTROL.**

A statewide surveillance and utilization control program shall be established under part 9500.0990.

**9500.1468 [Emergency] SURVEILLANCE AND UTILIZATION REVIEW PROGRAM.**

The surveillance and utilization review procedures in parts 9505.1750 to 9505.2130, and 9505.2150 apply to MAPDP.

**9500.1469 [Emergency] SERVICES COVERED BY MAPDP.**

**Subpart 1. In general.** The following services are covered under MAPDP.

**Subp. 2. Inpatient hospital services.** "Inpatient hospital services" are those items and services ordinarily furnished by a hospital for the care and treatment of inpatients; and which are provided under the direction of a physician or dentist in an institution maintained primarily for treatment and care of patients with disorders other than tuberculosis or mental diseases; and which is licensed or formally approved as a hospital by the Minnesota Department of Health; and which is qualified to participate under title XVIII of the Social Security Act or is determined currently to meet the requirements for such participation; and which has in effect a utilization review plan applicable to all patients who receive medical assistance under title XIX of the Social Security Act which meets applicable federal requirements, unless a waiver has been granted by the secretary of the Department of Health, Education, and Welfare. All inpatient hospitals certified for participation under medicare (title XVIII) are eligible to participate in MAPDP upon completion of a provider agreement.

The hospital shall comply with all federal and state regulations concerning informed consent for voluntary sterilization procedures. Failure to comply with these requirements will result in denial of payment by the Department of Human Services.

**Subp. 3. Long-term care facility services.** "Long-term care facility services," as defined in part 9500.1070, subpart 3, shall be provided in accordance with parts 9500.0750 to 9500.1080.

**Subp. 4. Physician services.** Physician services are those services provided by or under the personal supervision of a licensed physician or osteopath within the scope of his or her profession as defined by state law. All physicians currently licensed to practice medicine under Minnesota law are eligible to participate in the MAPDP. Out-of-state physicians who are licensed in the state of service are also eligible for participation in Minnesota's MAPDP. The MAPDP shall include all emergency health care.

**Subp. 5. Other licensed practitioners.** The MAPDP shall include medical and remedial care or services, other than physicians' services, provided by a practitioner currently licensed under Minnesota law and performed within the scope of practice as defined by state law.

A. Chiropractors shall be currently licensed as chiropractors and conform to the uniform minimum standards promulgated by the secretary of health, education and welfare under title XVIII of the Social Security Act, as amended.

B. Podiatrists shall be currently licensed as podiatrists by the state of Minnesota.

C. Optometrists shall be currently licensed by the Board of Optometry. Ophthalmologists shall be currently licensed by the state. Also eligible for participation are opticians who are normally associated with the fabrication or dispensing of materials, and out-of-state providers in one of the above classifications licensed by the state of service.

D. Psychologists are individuals currently licensed by the Minnesota Board of Examiners of Psychologists to practice as licensed psychologists or licensed consulting psychologists in the appropriate service areas.

E. A public health nurse is a registered nurse who is licensed as a professional nurse and certified by the State Board of Health as a public health nurse.

F. Dental services are diagnostic, preventive, or corrective procedures administered by or under the supervision of a licensed dentist. The MAPDP includes all emergency care and basic oral health needs. Dentures are artificial structures prescribed by a dentist to replace a full or partial set of teeth and made by or according to the directions of a licensed dentist.

**Subp. 6. Outpatient hospital services.** "Outpatient hospital services" are preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a licensed physician or dentist to an

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outpatient in an outpatient facility which is licensed as a hospital by the state and which is qualified to participate under title XVIII of the Social Security Act, or is currently determined to meet the requirements for such participation. All outpatient hospitals certified to participate under medicare, title XVIII of the Social Security Act, are eligible to participate in the MAPDP upon completion of a provider agreement.

A hospital shall comply with all federal and state regulations concerning informed consent for voluntary sterilization procedures as set forth in Code of Federal Regulations, title 42, section 441.257 to 441.258 and Minnesota Statutes, section 252A.13. Failure to comply will result in denial of payment under the medical assistance program.

**Subp. 7. Clinic services.** "Clinic services" are preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient by or under the direction of a licensed physician or dentist in a facility which is not part of a hospital but which is organized and operated to provide medical care to outpatients. Family planning agencies or centers are considered "clinics" under this definition.

Family planning agencies are agencies or clinics which primarily offer family planning related services and have executed either a contract or provider agreement with the state agency. Family planning agencies provide services concerned with the voluntary planning of the conception and bearing of children. The services include both fertility and infertility programs.

The following are limitations to services provided by family planning agencies: the request for services must originate with the recipient and proceed with the recipient's full knowledge and consent. The agency or clinic must comply with all federal and state regulations concerning informed consent for voluntary sterilization procedures as set forth in Code of Federal Regulations, title 42, sections 441.257 to 441.258 and Minnesota Statutes, section 252A.13. Failure to comply with these requirements will result in denial of payment under the medical assistance program.

**Subp. 8. Home health care services.** "Home health care services" are any of the services in items A to D when they are prescribed by a licensed physician to a patient in his place of residence, but excluding residence in a hospital, skilled nursing facility, or intermediate care facility:

- A. intermittent or part-time nursing services furnished by a home health agency;
- B. intermittent or part-time nursing services of a professional registered nurse or licensed practical nurse under the direction of the patient's physician, when no home health agency services are available;
- C. medical supplies, equipment, and appliances prescribed by a physician as necessary for the care of the patient and suitable for use in the home;
- D. services of a home health aide under the supervision of a professional nurse assigned by a home health agency.

A home health agency is a public or private agency or organization, or a subdivision of an agency or organization, which is qualified to participate as a home health agency under title XVIII of the Social Security Act or is determined by the Department of Health to currently meet the requirements of applicable federal regulations.

**Subp. 9. Medical supplies.** The term "medical supplies" as used in this part includes the most cost effective nondurable medical supplies, durable medical equipment, prostheses, orthoses, and oxygen. Medical supplies must be prescribed by a physician or other licensed medical practitioner within the scope of his profession as defined by state law. Medical supplies must be necessary and reasonable for the treatment or diagnosis of an illness or injury or to improve the functioning of a malformed body member.

A. "Nondurable medical supplies" means those items which have a limited life expectancy (for example, atomizers, nebulizers, fountain syringes, and incontinence pads).

B. "Durable medical equipment" means equipment which can withstand repeated use, is primarily used for medical purposes, is generally not useful to a person in the absence of illness or injury, and is appropriate for use in the home (for example, wheel chairs, hospital beds, and side rails).

C. "Prostheses" and "orthoses" mean replacement, corrective, or supportive devices for the purpose of artificially replacing a missing portion of the body or to prevent or correct physical deformity or malfunction or to support a weak or deformed portion of the body.

D. The MAPDP includes oxygen and any equipment necessary for administration of oxygen (or other than nasal catheters and positive pressure breathing apparatus) when prescribed by a licensed physician.

**Subp. 10. Private duty nursing services.** "Private duty nursing services" are nursing services provided by a professional registered nurse or a licensed practical nurse under the general direction of the patient's physician to the patient in his or her own home or in a hospital or skilled nursing facility, when the patient requires individual and continual care beyond that available from a visiting nurse or that routinely provided by the nursing staff of the hospital or skilled nursing facility. Eligible providers include registered nurses and licensed practical nurses in independent practice who provide services separate and apart from any employment or contract with any agency, organization, or facility.

The MAPDP includes private duty nursing services.

**Subp. 11. Rehabilitative and therapeutic services.** "Rehabilitative and therapeutic services" are provided for the purpose of increasing or maintaining the maximum level of functional independence of patients. These services are defined pursuant to physician orders and when purchased by a facility, agency, or independent practitioner and include the use of supplies and equipment as necessary.

**Subp. 12. Rehabilitative and therapeutic services in long-term care facilities.** Such services must be provided in accordance with applicable federal regulations, state law, and Department of Human Services rules.

A. Physical therapy means those services prescribed by a physician and provided to a patient by a qualified physical therapist. In addition, other qualified rehabilitative personnel, including physical therapy assistants, physical therapy aides, and physical therapy orderlies may assist the physical therapist in performing physical therapy services and in the performance of duties that do not require a qualified physical therapist's knowledge and skill. The full responsibility for the patient's instruction or treatment remains with the qualified physical therapist in consultation with the attending physician. When services of support personnel are utilized, there must be direct, on-site observation and supervision by the qualified physical therapist. A qualified physical therapist is a graduate of a school of physical therapy approved by the Council on Medical Education of the American Medical Association and the American Physical Therapy Association, and who has a valid Minnesota certificate of registration.

B. Occupational therapy means those services prescribed by a physician and provided to a patient by a qualified occupational therapist. Other qualified rehabilitative personnel, including occupational therapy assistants, occupational therapy aides, and occupational therapy orderlies may assist the occupational therapist in performing occupational therapy services and in the performance of duties that do not require a qualified occupational therapist's knowledge and skill. The full responsibility for the patient's instruction or treatment remains with the qualified occupational therapist in consultation with the attending physician. When services of support personnel are utilized, there must be direct, on-site observation and supervision by the qualified occupational therapist. A qualified occupational therapist is a graduate of a school of occupational therapy approved by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or who is registered by the American Occupational Therapy Association.

C. Services for individuals with speech, hearing, and language disorders means those diagnostic, screening, preventive, or corrective services prescribed by a physician and provided by a qualified speech pathologist or a qualified audiologist in the practice of the profession. A qualified speech pathologist or qualified audiologist shall have a certificate of clinical competence from the American Speech and Hearing Association, or shall have completed the equivalent educational requirements and work experience necessary for obtaining a certificate, or shall have completed the academic program and be in the process of accumulating the necessary supervised work experience required to qualify for a certificate.

D. Specialized rehabilitative service requirements, inpatient and outpatient are:

(1) There must be a reasonable medical expectation that the patient's condition will improve significantly in a reasonable period. This expectation shall be based on the attending physician's assessment of the patient's potential for rehabilitation after consultation with qualified rehabilitative personnel.

(2) Physician orders must relate the necessity for specialized maintenance therapy to the patient's particular disabilities. The therapy must be necessary for maintaining the patient's current level of functioning or for preventing deterioration of the patient's condition. Specialized maintenance therapy shall be provided only by qualified rehabilitative personnel and only to those patients who cannot be adequately and appropriately treated solely within the facility's nursing program.

**Subp. 13. Speech pathology, audiology, and physical therapy provided by independent practitioners.** Such services are of a diagnostic, screening, preventive, or corrective nature and provided to individuals with speech, hearing, and language disorders, or physical impairments. Such services must be provided in accordance with the applicable federal regulations, state law, and Department of Human Services rules.

A. Speech pathology means those services prescribed by a licensed physician and provided to a patient by a qualified speech pathologist in independent practice. A qualified speech pathologist in independent practice shall have received a certificate of clinical competence from the American Speech and Hearing Association (ASHA) or shall have

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submitted to the medical assistance program an equivalency statement from ASHA indicating that ASHA certification standards have been met.

B. Audiology means those services prescribed by a licensed physician and provided to a patient by a qualified audiologist in independent practice. A qualified audiologist in independent practice shall have received the certificate of clinical competence from ASHA or shall have submitted to the medical assistance program an equivalency statement from ASHA indicating that ASHA certification standards have been met.

C. Physical therapy means those services prescribed by a licensed physician and provided to a patient by a qualified physical therapist in independent practice. A qualified physical therapist in independent practice is a graduate of a program of physical therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association, has a valid Minnesota Certificate of Registration, and has been certified as an independent practitioner by the Minnesota Department of Health.

**Subp. 14. Rehabilitation agencies.** A "rehabilitation agency" is an agency which provides an integrated multidisciplinary program designed to upgrade the physical function of handicapped, disabled individuals. At a minimum, a rehabilitation agency must provide physical therapy or speech pathology services, and a rehabilitation program that in addition to physical therapy or speech pathology services, includes social or vocational adjustment services. Eligible providers include all rehabilitation agencies participating in the Medicare program (title XVIII). "Rehabilitation agency services" are those services provided by certified rehabilitation agencies in accordance with applicable federal regulations, state law, and Department of Human Services rules and defined as follows:

A. Medical services are those services provided to a patient within the scope and practice of medicine as defined by Minnesota law and performed by a currently licensed physician.

B. Psychological services are those services provided to a patient by a psychologist licensed to practice in the appropriate service areas, when medically necessary.

C. Psychosocial services are those services provided to a patient by a social worker for whom a licensed physician assumes total professional and administrative responsibility as if the services were provided by the physician. To receive reimbursement under the MAPDP all psychosocial services shall be ordered by a licensed physician.

D. Physical therapy means those services prescribed by a licensed physician and provided to a patient by a qualified physical therapist. Other personnel may assist physical therapists in performing physical therapy services and in the performance of duties that do not require professional therapy knowledge and skill. The full responsibility for patient instruction or treatment remains with the qualified physical therapist in consultation with the attending physician. When services of support personnel are utilized, there must be direct on-site observation and supervision by the qualified physical therapist.

E. Occupational therapy are those services prescribed by a licensed physician and provided to a patient by a qualified occupational therapist. Other personnel may assist occupational therapists in performing occupational therapy services and in the performance of duties that do not require professional therapy knowledge and skill. The full responsibility for patient instruction or treatment remains with the qualified occupational therapist in consultation with the attending physician. When services of support personnel are utilized, there must be direct on-site observation and supervision by the qualified occupational therapist.

F. Speech pathology or audiology services for individuals with speech, hearing, and language disorders are those diagnostic, screening, preventive, or corrective services provided by a qualified speech pathologist or audiologist in the practice of his profession for which a patient is referred by a licensed physician.

G. Special services are physician-ordered and monitored evaluations, classes, clinics, or programs provided to patients generally by a rehabilitation team.

**Subp. 15. Other laboratory and X-ray services.** Other laboratory and X-ray services include professional and technical laboratory and radiological services ordered by a licensed physician, dentist, or other licensed medical practitioner within the scope of his practice as defined by state law and who is not employed by that laboratory.

**Subp. 16. Pharmacy services.** A pharmacy is a facility licensed by the State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended, or sold on a retail basis. Prescribed drugs are any simple or compounded substance or mixture of substances prescribed for the care, mitigation, or prevention of disease or for health maintenance, by a physician, dentist, or other licensed medical practitioner within the scope of his practice as defined by state law. The MAPDP covers prescribed drugs obtained from a licensed pharmacy or from a hospital in which drug dispensing is under the supervision of a licensed pharmacist.

The following are service limitations of the medical assistance pharmacy program:

A. Pharmaceuticals must be prescribed by a licensed physician, dentist, or other authorized licensed medical practitioner. The dispensing medical practitioner must keep the signed prescription on file for five years, subject to audit at any reasonable time, and must comply with the provisions of part 9500.0930, subpart 4.

B. All prescriptions must be reduced to writing with the name of the prescribing physician shown and must be signed by the prescribing physician or the pharmacist.

C. Prescription refills: the prescriber must indicate approval for refilling the prescription. In the absence of specific refill instructions, the prescription will be interpreted to be not refillable.

**Subp. 17. Early periodic screening, diagnosis, and treatment (EPSDT).** The MAPDP includes early and periodic screening and diagnosis of individuals under the age of 21 to ascertain physical or mental defects and for health care, treatment, and other measures to correct or improve defects and chronic conditions detected. Services rendered by providers other than licensed physicians are included within MAPDP only if the Minnesota Department of Health has previously approved the screening activities.

In order to comply with federal and state EPSDT requirements, local welfare agencies shall:

- A. notify in writing on an annual basis all recipients eligible for EPSDT services of the existence of the services;
- B. provide or arrange for provision of screening services when they are requested;
- C. arrange for corrective treatment; and
- D. maintain adequate EPSDT records and report activities as required by the commissioner.

In order to comply with federal and state EPSDT requirements, providers shall follow required EPSDT billing and reporting procedures.

**Subp. 18. Other medical care.** The MAPDP includes other medical care as follows:

A. Transportation only when furnished by an enrolled medical provider licensed by the Minnesota Department of Health.

The following services rendered by medical transportation providers are not included by the MAPDP: any routine service determined by the local welfare agency not to be medically necessary and unnecessary ambulance service.

B. Emergency hospital services which are necessary to prevent the death or serious impairment of the health of an individual.

C. Personal care services in a recipient's home rendered by a qualified individual, other than a member of the patient's family, when the services are prescribed by a physician and supervised by a registered nurse.

D. Whole blood, including items and services required in the collection, storage, and administration thereof, when ordered by a licensed physician and is not available to the patient from other sources.

**Subp. 19. Mental health centers.** "Mental health centers" are centers currently receiving grant-in-aid who are operating in accordance with parts 9520.0010 to 9520.0230. Services provided by mental health centers must be provided under the direction of a psychiatrist licensed to practice medicine in the United States or Canada or a licensed consulting psychologist, currently enrolled as an eligible provider under the medical assistance program. The MAPDP includes mental health center services provided to residents of long-term care facilities only if the attending physician assisted the development of the plan of treatment and periodically reviews that plan.

**Subp. 20. Abortions.** The cost of abortion services shall be included only when the conditions under items A, B, and C are met:

A. The abortion is necessary to prevent the death of the mother. The cost of the abortion shall be covered only if the documentation in subitems (1) and (2) accompanies the provider's invoice to the state agency:

(1) the signed written statement of two physicians that it was their professional judgment that the abortion was necessary to prevent the death of the mother; and

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## PROPOSED RULES

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(2) the signed written statement of the recipient that she voluntarily consented to the abortion. In the event that the recipient is physically or legally incapable of providing informed consent, consent may be obtained as is otherwise provided by law.

B. The abortion is to terminate a pregnancy which is the result of a sexual assault. The cost of the abortion shall be covered only if a report of the assault was made to a valid law enforcement agency within 48 hours of the time the assault occurred and a signed statement from the law enforcement agency accompanies the provider's invoice to the state agency. In the event the recipient was physically unable to make the report within 48 hours of the assault, the report must have been made within 48 hours after the recipient became physically able to make the report.

The statement of the law enforcement agency shall include:

- (1) the name of the victim;
- (2) the date of the alleged incident;
- (3) the date the report was made to the law enforcement agency;
- (4) the name and address of the person who signed the report to the law enforcement agency; and
- (5) a statement by the law enforcement agency that the report alleges at least one of the following:

(a) the circumstances existing at the time of the assault caused the recipient to have a reasonable fear of imminent great bodily harm to herself or to another;

(b) the assailant was armed with a dangerous weapon or an article used or fashioned in a manner which led the recipient to reasonably believe it to be a dangerous weapon, and used or threatened to use the weapon or article to cause the complainant to submit;

(c) the assailant caused personal injury to the complainant and used force or coercion to accomplish sexual penetration; or

(d) the assailant was aided or abetted by one or more accomplices and either an accomplice used force or coercion to cause the recipient to submit, or an accomplice was armed with a dangerous weapon or an article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the recipient to submit.

The provider's invoice shall also be accompanied by a statement, signed by the recipient, that her pregnancy resulted from the sexual assault reported, and a statement, signed by the recipient's physician, that in the physician's opinion the length of the pregnancy at the time of the abortion was not inconsistent with the recipient's statement.

C. The abortion is to terminate a pregnancy which is the result of incest. The cost of the abortion shall be covered only if a report of incest was made to a valid law enforcement agency prior to the time of the abortion and a signed statement from the law enforcement agency accompanies the provider's invoice to the state agency. The statement shall include:

- (1) the name of the victim;
- (2) the date of the alleged incident;
- (3) the date the report was made to the law enforcement agency;
- (4) the name and address of the person who signed the report to the law enforcement agency; and
- (5) a statement by the law enforcement agency that the name of the relative who allegedly committed incest with the victim appears in its report.

The provider's invoice shall also be accompanied by a statement, signed by the recipient, that her pregnancy resulted from the incest reported, and a statement, signed by the recipient's physician, that in the physician's opinion the length of the pregnancy at the time of the abortion was not inconsistent with the recipient's statement.

D. For the purposes of this subpart only, the following definitions apply:

(1) "Abortion services" means medical service performed for the purpose of terminating a pregnancy. This shall not be construed to include drugs or devices which prevent implantation of the fertilized ovum, or medical procedures necessary for the termination of an ectopic pregnancy.

(2) "Assailant" means a person who allegedly committed the sexual assault reported to the law enforcement agency.

(3) "Incest" means sexual intercourse with another nearer in kin than first cousin, of the whole or half-blood.

(4) "Valid law enforcement agency" means an agency charged under applicable law with enforcement of the general penal statutes of the United States, or of any state or local jurisdiction.

**9500.1470 [Emergency] CAPITATION POLICIES.**

**Subpart 1. Rates.** Capitation rates must be developed on a historical cost basis. Base rates must be determined by calculating a county average per capita cost. Presuming increased efficiency through provider-managed utilization, the actual rate offered (contractual rate) must be a specified percentage of the county average per capita cost.

The historical cost base of the rates must be fiscal year 1982 adjusted forward to the implementation year. This adjustment must be the per capita cost increase based on Department of Human Services projections (13.9 percent for noninstitutional, 15.0 percent for institutional enrollees), taking into account all legislative changes. Adjustments must be made for 1984 legislative action only if changes affect fiscal year 1985 payments.

Rates must be adjusted on a state fiscal year basis, July 1 to June 30. The annual increase to each capitation rate must be the maximum overall service unit increase as prescribed in Minnesota Statutes, section 256.966. If an annual increase is not prescribed in law for the 1986-1987 biennium, an equivalent factor must be calculated by the commissioner.

**Subp. 2. Risk sharing arrangements.** In addition to the capitation rate, the Department of Human Services shall provide two types of risk-sharing:

- A. aggregate loss-sharing; and
- B. individual stop-loss for catastrophic illness cases.

**Subp. 3. Aggregate loss-sharing.** Under aggregate loss-sharing, the Department of Human Services and Medicaid health plan shall share the loss if the allowable costs exceed the aggregate payment provided through the capitation. The MAPDP is intended to demonstrate the shifting of financial risk from the Department of Human Services to the Medicaid health plans, and aggregate loss-sharing shall be phased out over the three-year implementation period, under the following arrangement:

- A. AFDC = (90 percent capitation):
  - (1) year 1, loss-share 50-50 up to 100 percent;
  - (2) year 2, loss-share 50-50 up to 100 percent; and
  - (3) year 3, no loss-sharing.
- B. Aged, blind, disabled = (95 percent capitation):
  - (1) year 1, loss-share 50-50 up to 115 percent;
  - (2) year 2, loss-share 50-50 up to 105 percent; and
  - (3) year 3, no loss-sharing.

Risk-sharing expenses must only be applied to the aggregate cost of claims for services rendered directly to enrollees. For purposes of this policy, services rendered directly shall include services provided face to face with the enrollee, consultations with the enrollee's representative, or activities resulting in telephone contact with the enrollee.

**Subp. 4. Individual stop-loss coverage.** Stop-loss coverage must be provided for 80 percent of the cost of hospital claims exceeding \$15,000 for AFDC enrollees and \$30,000 for the aged, blind, or disabled enrollees and over 90 days of nursing home care or equivalent home health or personal care attendant services. For individual stop-loss, claims must be calculated according to medical assistance allowable charges.

This policy does not affect providers' opportunity to seek alternative care grants. When alternative care grants are awarded, stop-loss coverage must terminate because the cost of care shall be provided through the grant. This applies to personal care attendant services and home health care services. Individual stop-loss coverage must remain in place during the three years of the demonstration. Stop-loss coverage is that amount the Department of Human Services will pay in excess of capitation rates under the following circumstances.

Medicaid health plans may choose not to take part in the DHS stop-loss program. In order to choose another form of stop-loss coverage, the organization shall assure that:

- A. there is an adequate financial reserve separate from operating funds to cover catastrophic liabilities;
- B. not more than 30 percent of the organization's operating budget is medical assistance related; and

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C. the Medicaid health plan waives the right of 90-day termination of contract to be replaced by 180-day termination notice.

The capitation rate must be adjusted to include the cost of the Department of Human Services stop-loss, however additional costs of the purchasing private reinsurance must not be covered in the capitation nor be subject to cost-sharing.

### **9500.1471 [Emergency] PROVIDER CRITERIA.**

**Subpart 1. Standards.** Criteria for provider participation in the MAPDP have been developed to ensure a minimum set of operating standards for Medicaid health plans. Part 9500.1471 is designed to encourage provider participation in the program and to uphold the existing quality of health care in the demonstration counties. These criteria form the basis for the contractual relationship between the Department of Human Services and the Medicaid health plans.

**Subp. 2. Service array.** Medicaid health plans shall be encouraged to serve as many medical assistance eligible populations as possible. A Medicaid health plan may design services for a single population limited to aged, blind, or disabled. If a plan elects to serve AFDC, it must serve at least one other medical assistance population.

Each Medicaid health plan shall provide or ensure provision of the full array of medical assistance benefits and services as set forth in part 9500.1469 [Emergency], subpart 1, to its enrollees.

With the exception of emergency services, the Medicaid health plan shall not be liable for payment for unauthorized services rendered outside of plan.

There shall be no copayments or deductibles charged to medical assistance consumers enrolled in a MAPDP.

Medicaid health plans may either be for profit or not for profit.

**Subp. 3. Contractual arrangements.** The Medicaid health plan's written contract with the Department of Human Services must ensure the provision of services to the selected medical assistance populations and ensure understanding of and compliance with all of the provider criteria for participation in the project.

Each Medicaid health plan shall demonstrate formal contractual arrangements with major providers to meet the service needs of its enrolled medical assistance population.

In the Medicaid health plan contract with the Department of Human Services there shall be a 90-day termination notice provision for either party. Also notification of termination of contract must be given to enrollees in plan not less than 30 days prior to cancellation. Responsibility for this notification shall be determined individually in each Medicaid health plan contract with the Department of Human Services.

**Subp. 4. Membership.** Each Medicaid health plan shall demonstrate capacity for servicing new members or enrollees.

The contract between the Department of Human Services and each Medicaid health plan must specify maximum and minimum number of enrollees based on physical and financial capabilities of Medicaid health plans.

Each Medicaid health plan shall accept all Medicaid eligible applicants wishing to enroll in its program, from the population categories it is targeted to serve regardless of health condition, within the enrollment capacity.

**Subp. 5. Financial requirements.** Each Medicaid health plan with Department of Human Services contracts shall be accountable for fiscal management control over the programs it sponsors or delivers.

Each Medicaid health plan shall demonstrate the capability to absorb losses either through a reserve fund or other mechanism agreed upon by the providers within each Medicaid health plan involved.

At the time of contracting with the Department of Human Services, each Medicaid health plan shall have a plan developed and approved for transferring enrollees to other delivery arrangements in the event of insolvency.

The Department of Human Services shall be held harmless in case of insolvency of Medicaid health plans or subcontracting providers, or both, for payment of services provided while the plan was operational.

The Medicaid health plan shall accept capitation from the Department of Human Services as full payment for services.

**Subp. 6. Risk capability.** Each Medicaid health plan may share risk with other corporate entities or other subcontracting providers.

Each Medicaid health plan shall be expected to assume phased and increasing risk over the three-year period of the demonstration. Each Medicaid health plan shall be at full risk by the third year.

**Subp. 7. Marketing plan.** Each Medicaid health plan must provide, at the time of contracting with the Department of Human Services, information on marketing activities to be directed at the MAPDP target population, and must present all marketing materials for the Department of Human Services' approval. No marketing materials shall be disseminated without prior written approval from the Department of Human Services.

**Subp. 8. Data-information requirements.** Each Medicaid health plan shall provide necessary information and data to the Department of Human Services and Federal Health Care Financer Administration as set forth in the MAPDP contract to meet the project needs for:

- A. administration;
- B. payment;
- C. quality assurance;
- D. evaluation;
- E. Health Care Financer Administration requirements; and
- F. fraud and abuse detection.

Each Medicaid health plan shall make immediately available to the Department of Human Services upon demand of the Department of Human Services information on medical assistance related medical records and financial information for quality assurance and evaluation purposes and for instances of suspected fraud and abuse.

Each Medicaid health plan shall be responsible for information needs set forth at subparts 1 to 7.

Each Medicaid health plan shall agree to use the Minnesota Medicaid Information System to avoid duplication.

Each MAPDP Medicaid health plan shall be responsible for reporting to the Department of Human Services information detailed in the data-information matrix published in "Medicaid Prepayment Demonstration Project: Provider Education Booklet" (February 1984), issued by the Minnesota Department of Human Services, Bureau of Income Maintenance, Health Care Programs Division, Office of New Initiatives, 444 Lafayette Road, St. Paul, Minnesota 55101, which is incorporated by reference.

**Subp. 9. Quality assurance.** Each Medicaid health plan shall develop a quality assurance system for appropriate delivery of health and social services to the enrolled medical assistance population. Each Medicaid health plan shall be responsible for monitoring and determining its own systems and corrective actions to assure quality. The quality assurance system must be in place at the time of contracting with the Department of Human Services and must include documentation and appropriate review or conduct of:

- A. All problem cases and a randomly selected review of all cases. Portions of case review shall be done by a peer and interdisciplinary procedure. The Department of Human Services may require further review of any case.
- B. Utilization of service.
- C. Sentinel events including mortality rates, adverse outcomes, generally preventable disease.
- D. Institutionalization rates.
- E. Unauthorized out-of-plan usage.
- F. Medical care evaluations.
- G. Medical records audits.
- H. Provider and consumer grievance rates.
- I. Independent enrollee satisfaction surveys.

**Subp. 10. Enrollee grievance procedures.** Each Medicaid health plan shall have a grievance procedure or complaint system which solves enrollee complaints. The grievance procedure must be an informal system with a determination made within seven calendar days from the date the plan receives a complaint, and a formal structure including written complaints and formal hearing arbitration, with a determination made within 30 calendar days from the date the plan receives a complaint.

The grievance procedure must be in writing. A copy must be provided and explained to each enrollee, in a language that is understandable to them.

If a consumer is dissatisfied with the response of the internal plan grievance procedure, the consumer may appeal through state procedures as provided by Minnesota Statutes, section 256.045.

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## PROPOSED RULES

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**Subp. 11. Procedural changes.** Any changes in the procedure must be consistent with the provisions in this part and must be reported to the recipient at least two weeks before implementation. The process and the written material shall be approved by the Department of Human Services prior to implementation.

**Subp. 12. Medicaid health plan grievance procedures.** Each Medicaid health plan shall record all complaints, actions, and results and report to the Department of Human Services semi-annually.

If a Medicaid health plan is dissatisfied with the actions of an enrollee they may notify the Department of Human Services. It shall be explained to the enrollee in writing, with a copy given to the enrollee, that this notification shall not result in a loss of eligibility or removal from the Medicaid health plan.

The Medicaid health plan must provide for a second medical opinion when requested by the enrollee or the Department of Human Services within the plan and comply with any recommendations made by the professional advisory committee of the Department of Human Services and the appeals referee in response to the external formal grievance procedure.

**Subp. 13. Case management.** At the time of contracting with the Department of Human Services, Medicaid health plans must demonstrate a case management system that shall contain:

- A. individual needs assessment;
- B. individual care plan development and implementation; and
- C. evaluation, monitoring, and revision of individual care plans.

### **9500.1473 [Emergency] DOCUMENTATION.**

Local agencies shall document the completion of requirements in parts 9500.1450 to 9500.1475 [Emergency] on forms prescribed by the Department of Human Services.

### **9500.1474 [Emergency] INTERAGENCY COORDINATION.**

Local agencies, including local nursing services, local head start agencies, and local school districts, shall cooperate with other agencies which provide health services to children so that duplication of services is avoided.

## Department of Human Services

### Proposed Emergency Rules Governing Prior Authorization for Health Services and Second Surgical Opinion as a Condition for MA and GAMC Reimbursement

#### Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Statutes, section 256.991, supp. 1983.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Ann Grossman  
Department of Human Services  
Professional Services Section  
Second Floor, Space Center Building  
444 Lafayette Road  
St. Paul, MN 55101  
Telephone: 612/297-2380

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the attorney general will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency rules shall be in

effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Minnesota Rules, part 9505.5000 [Emergency] establishes the applicability of parts 9505.5000 to 9505.5030 (Emergency) to procedures for prior authorization of health services and the requirement of a second surgical opinion as conditions of reimbursement to providers of health services for recipients of medical assistance and general assistance medical care. Part 9505.5010 (Emergency) defines the terms used in parts 9505.5000 to 9505.5030 (Emergency). Part 9505.5020 (Emergency) establishes prior authorization criteria, requirements, and responsibilities. Part 9505.5030 (Emergency) establishes the requirements, procedures, and responsibilities for a second surgical opinion.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the Legislature.

A free copy of the proposed emergency rule may be obtained by contacting Ann Grossman, Department of Human Services, Professional Services Section, Second Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, 612/297-2380.

Leonard W. Levine  
Commissioner of Human Services

### **Emergency Rules as Proposed (all new material)**

#### **9505.5000 [Emergency] APPLICABILITY.**

Parts 9505.5000 to 9505.5030 [Emergency] establish the procedures for prior authorization of health services and the requirement of a second surgical opinion as conditions of reimbursement to providers of health services for recipients of medical assistance and general assistance medical care.

These parts shall be read in conjunction with title XIX of the Social Security Act, Code of Federal Regulations, title 42, sections 430.00 to 482.57; Minnesota Statutes, sections 256B.01 to 256B.40; 256B.56 to 256B.71; 256D.01 to 256D.40; and Minnesota Rules, parts 9500.0750 to 9500.1100.

#### **9505.5010 [Emergency] DEFINITIONS.**

**Subpart 1. Definitions.** The terms used in parts 9505.5000 to 9505.5030 [Emergency] have the meanings given them in subparts 2 to 17.

**Subp. 2. Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or an authorized designee.

**Subp. 3. Consultant.** "Consultant" means an individual who is licensed or registered according to state law or meets the credentials established by the respective professional organization in an area of health care or medical service; is under contract with the Department of Human Services; advises the department whether to approve, deny, or modify prior authorization requests in his or her area of expertise; advises and recommends about policies on health services; and performs other duties as assigned.

**Subp. 4. Department.** "Department" means the Minnesota Department of Human Services.

**Subp. 5. Emergency.** "Emergency" means a medical condition that, if not immediately diagnosed and treated, could cause a recipient serious physical or mental disability, continuation of severe pain, or death.

**Subp. 6. Fair hearing.** "Fair hearing" means an administrative review under Minnesota Statutes, section 256.045 and as provided in part 9505.5020 [Emergency], subpart 7, to examine facts concerning the matter in dispute and to advise the commissioner whether the department's decision to reduce or deny benefits was correct.

**Subp. 7. General assistance medical care or GAMC.** "General assistance medical care" or "GAMC" means the health services provided to a recipient under the general assistance medical care program according to Minnesota Statutes, section 256D.03.

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## PROPOSED RULES

**Subp. 8. Health services.** "Health services" means the services and supplies furnished to a recipient by a provider as defined in subpart 15.

**Subp. 9. Investigative.** "Investigative" means:

A. A health service procedure which has progressed to limited human application and trial, which lacks wide recognition as a proven and effective procedure in clinical medicine as determined by the United States Department of Health and Human Services in the administration of the Medicare program.

B. A drug or device that the United States Food and Drug Administration has not yet declared safe and effective for the use prescribed. For purposes of this definition, drugs and devices shall be the same as in the Food and Drug Act.

**Subp. 10. Local agency.** "Local agency" means a county or a multicounty agency that is authorized under Minnesota Statutes as the agency responsible for the administration of the medical assistance and general assistance medical care programs.

**Subp. 11. Local trade area.** "Local trade area" means the geographic area surrounding the recipient's residence which the local agency identifies as commonly used by other persons in the same area to obtain necessary goods and services.

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

**Subp. 13. Physician.** "Physician" means a person licensed to provide services within the scope of his or her profession as defined in Minnesota Statutes, chapter 147. For purposes of the second surgical opinion requirement in part 9505.5030 [Emergency], "physician" shall also mean a person providing dental services within the scope of his or her profession as defined in Minnesota Statutes, chapter 150A.

**Subp. 14. Prior authorization.** "Prior authorization" means the written authorization issued by the department to a provider for the provision of a covered service specified under part 9500.5020 [Emergency].

**Subp. 15. Provider.** "Provider" means an individual or organization furnishing health services to persons eligible for the medical assistance or general assistance medical care programs under an agreement with the department.

**Subp. 16. Recipient.** "Recipient" means a person who is eligible for and receiving benefits from the medical assistance or general assistance medical care program.

**Subp. 17. Referee.** "Referee" means an individual who conducts fair hearings under Minnesota Statutes, section 256.045 and recommends rulings to the commissioner.

### 9505.5020 [Emergency] PRIOR AUTHORIZATION CRITERIA, REQUIREMENTS, AND RESPONSIBILITIES.

**Subpart 1. Prior authorization required.** Except as provided in subpart 2, a provider shall obtain prior authorization as a condition of medical assistance and general assistance medical care program reimbursement for health services designated in subpart 4. A provider who offers health services without complying with the prior authorization requirements of parts 9505.5000 to 9505.5020 [Emergency] shall not be reimbursed. A physician, hospital, or other provider who is denied reimbursement because of failure to comply with parts 9505.5000 to 9505.5020 [Emergency] shall not seek payment from the recipient and the recipient shall not be liable for payment of the service for which reimbursement is denied. Prior authorization shall assure the provider reimbursement for the approved health service only if the service is given during a time the person is a recipient and if the provider meets the requirements of other rules applicable to the medical assistance and general assistance medical care programs.

**Subp. 2. Retroactive authorization.** As provided in items A and B, medical assistance or general assistance medical care programs reimbursement shall be given for a health service for which the required authorization was requested after the health service was delivered to the recipient.

A. A health service requiring prior authorization shall be reimbursed without prior authorization in an emergency if the provider submits the prior authorization form, DPW-1855, no later than three working days after providing the initial service and the provider documents the emergency by submitting materials, reports, progress notes, admission histories, and other information necessary to substantiate the characterization of the service as necessary to the condition of the recipient.

B. When the health service was provided on or after the date on which the recipient's eligibility began, but before the date the case was opened, a health service requiring prior authorization shall be authorized retroactively if the health service meets the criteria in subpart 6, and if an authorization request is submitted to the department within 20 working days of the date the case was opened. The request for retroactive authorization must be submitted to the department in the manner set in subpart 3.

**Subp. 3. Provider responsibilities.** The provider shall submit to the department a prior authorization form, DPW-1855,

which has been completed according to instructions in the appropriate provider handbook and such other information necessary to substantiate the characterization of the service or supply. The provider shall bear the burden of proving an emergency for the purpose of the retroactive authorization in subpart 2. Further, the provider shall bear the burden of establishing compliance with the criteria in subpart 6 and shall submit information which demonstrates that the criteria in subpart 6 are met. The provider who administers or supervises the recipient's care shall personally sign the form and any attached documentation.

**Subp. 4. Department responsibilities.** If the information submitted by the provider does not meet the requirements of subpart 6, the department shall notify the provider of what is necessary to complete the request and the time limit for its submission. If the department does not receive the requested information within 15 working days of the postmarked date on which the notice was sent to the provider, the request for prior authorization shall be denied. The department shall send the provider, within 15 working days of receipt of all the information required in subpart 3, a notice of the action taken on the request for prior authorization. If the prior authorization request is denied, the department shall send the recipient within the same time period a copy of the notice sent to the provider and a statement of the recipient's right to appeal as provided in Minnesota Statutes, section 256.045.

The department shall annually publish in the last issue of the *State Register* for October a list of health services that require prior authorization. In addition, the department shall publish any revision of the list at least 30 days before the effective date if the revision imposes a prior authorization requirement on a health service. When a list is published, the department shall send each provider a copy of the list.

In addition to the list published in the *State Register*, prior authorization is required for health services to be provided outside of Minnesota, for health services which are considered investigative, for newly-developed or modified medical supplies or equipment, and for health services which are comparable to services provided in a skilled nursing or other facility, but which are provided in a recipient's home. A health service that is provided to a Minnesota resident outside of Minnesota but within the recipient's local trade area and that does not require prior authorization when it is provided to a Minnesota resident within Minnesota shall be exempt from the prior authorization requirement.

**Subp. 5. Criteria for selecting health services subject to the prior authorization requirement.** The commissioner shall use the criteria in items A to G to determine which health services shall be subject to the prior authorization requirement.

A. The health service is of questionable medical necessity as determined by consultants to the department.

B. The department determines use of the health service needs monitoring in order to control the expenditure of program funds.

C. Less costly appropriate alternatives to the health service are generally available.

D. The health service is investigative.

E. The health service is newly developed or modified.

F. The department determines that monitoring a health service of a continuing nature is necessary to prevent the continuation of the service when it ceases to be beneficial.

G. The health service is determined to be obsolete by the commissioner after consultation with the consultant.

**Subp. 6. Criteria for approval of prior authorization request.** Prior authorization required under subpart 4 shall be evaluated using the criteria given in items A to E. The health service shall:

A. be medically necessary as determined by prevailing community standards or customary practice and usage;

B. safeguard against inappropriate expenditures of program funds;

C. meet the standards for quality and timeliness of health service;

D. be evaluated to determine whether a less expensive appropriate alternative health service is available; and

E. promote the most effective and appropriate use of the available health service.

**Subp. 7. Fair hearings.** A recipient who disagrees with the department's action may request a fair hearing. When a recipient requests assistance from a local agency in filing an appeal with the department, the local agency shall provide the assistance. The hearing shall comply with the requirements of Code of Federal Regulations, title 42, section 431.244(f) or its successors.

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

## PROPOSED RULES

The request for a hearing must be submitted in writing by the recipient to the appeals unit of the department. A request for a fair hearing must be filed within 30 days of the date the prior authorization request was denied or no later than 90 days from the date of denial if the appeals referee finds there was good cause for the delay. A referee shall conduct the hearing according to Minnesota Statutes, section 256.045. Within 90 days of the date of receipt of the recipient's request, the commissioner shall make a ruling to uphold, reverse, or modify the action or decision of the department. The commissioner's ruling shall be binding upon the department and the recipient unless an appeal is filed pursuant to Minnesota Statutes, section 256.045.

**Subp. 8. Retention of information submitted by provider.** The department shall have the right to retain information submitted to the department by the provider in accordance with subpart 3.

### 9505.5030 [Emergency] SECOND OPINION SURGERY REQUIREMENT.

**Subpart 1. Surgical procedures requiring second opinion.** Except as provided in subpart 2, second surgical opinions shall be required for medical assistance and general assistance medical care recipients for inpatient and outpatient surgical procedures according to the list published in the *State Register* under Minnesota Statutes, section 256B.02, subdivision 8. Publication shall occur annually in the last issue of the *State Register* for the month of October. In addition, the department shall publish any revision of the list at least 30 days before the effective date if the revision imposes a second surgical opinion requirement. The department shall send each provider a copy of the published list or a revision of the published list.

**Subp. 2. Exemptions.** The circumstances in items A to E are exempt from the requirement of a second surgical opinion provided that the requirements of subpart 11 are met.

A. The surgical procedure is approved for reimbursement by Medicare.

B. The surgical procedure is a consequence of, or a customary and accepted practice as an incident to a more major surgical procedure which is subject to the second opinion requirement.

C. The procedure is an emergency. For an emergency, the provider shall submit substantiating documentation, consisting of reports, progress notes, admission history, or any other pertinent information which substantiates the characterization of the surgical procedure as an emergency.

D. A visit to another practitioner to obtain a second opinion requires travel outside the local trade area.

E. The recipient has good cause for not obtaining a second opinion. Good cause refers to circumstances beyond the recipient's control. Examples are illness of the recipient, illness of a family member requiring the presence of the recipient, or the unavailability of transportation.

**Subp. 3. Criteria to determine when second opinion is required.** The commissioner shall use the criteria given in items A to F to determine the surgical procedures that shall be subject to the second surgical opinion requirement.

A. Authoritative medical literature identifies the surgical procedure as being overutilized.

B. A surgical procedure is shown to be utilized to a greater degree within the Medicaid population than in a non-Medicaid population.

C. A surgical procedure is frequently utilized as demonstrated by department statistical reports.

D. A surgical procedure and associated care has costs that are demonstrated by statistical evidence to exceed the average.

E. Another surgical procedure that uses less intrusive measures could be employed.

F. The surgical procedure has at least a five percent rate of failure to obtain the requisite two physician's approvals, as determined by the Minnesota Medicaid Second Surgical Opinion Program or a similar second surgical opinion program.

**Subp. 4. Third surgical opinion.** When a second surgical opinion fails to substantiate the initial surgical opinion, a third surgical opinion shall be obtained if the recipient still wants the surgery. No opinion beyond the third opinion shall be considered in meeting the requirements of this part. The cost of an opinion beyond the third opinion shall not be reimbursed under the medical assistance or general assistance medical care program.

**Subp. 5. Second or third opinion by a physician.** The physician who initially recommends surgery shall provide to the recipient in need of a second or third surgical opinion, the names of at least two other physicians who are qualified to render a second or third opinion, or the name of an appropriate medical referral resource service. The recommending physician shall have no financial interest with or referral relationship to the physician named to render a second or third opinion, or the medical referral resource service. The physician who gives a second or third opinion must be a provider.

**Subp. 6. Penalties.** The commissioner shall have the right to suspend, restrict, or terminate a physician's participation in the medical assistance or general assistance medical care program, or to deny payment for an opinion when the commissioner determines the physician who rendered the opinion has a financial interest with or referral relationship to a

physician rendering an opinion relative to the proposed surgery or the medical referral resource service. The penalties of this subpart shall also supply when the commissioner determines a physician has rendered a fraudulent opinion.

**Subp. 7. Reimbursement of cost of second and third surgical opinions.** Reimbursement of the cost of second and third surgical opinions under the medical assistance and general assistance medical care programs shall be permitted up to the allowable fee maximums as maintained by the department. When the physician who provides the second or third surgical opinion also performs the surgery, reimbursement for the surgery shall be denied.

**Subp. 8. Time limits; second and third opinions; surgery.** The second surgical opinion shall be obtained within 90 days of the date of the initial opinion; the third opinion, if required, shall be obtained within 45 days of the date of the second opinion; approved surgery, if not performed within 180 days of the initial opinion, and if the recipient still wants the surgery, shall require repetition of the second surgical opinion process as described in this part.

**Subp. 9. Physician surgical services.** The physician offering the surgical service shall ensure that the required second opinion and, when required, third opinion, are obtained.

**Subp. 10. Prohibition of payment request.** A physician, hospital, or other provider who is denied reimbursement because of failure to comply with this part shall not seek payment from the recipient of the service for which reimbursement was denied.

**Subp. 11. Physician responsibility.** The physician who provides a second or third opinion shall indicate his approval or disapproval of the requested surgical procedure, on a form supplied by the department. The completed form shall contain all the information considered by the commissioner necessary to substantiate the second opinion, shall be personally signed by each physician providing an opinion, shall be attached to a completed and signed prior authorization form, and shall be submitted to the department. If two of the three physicians concur that the requested surgical procedure is appropriate, the department shall certify that the requirements of this part are met and shall assign an authorization number within 15 working days of the department's receipt of the necessary information and forms. Failure to obtain a required second or third surgical opinion shall be grounds for denying reimbursement for any costs, direct and indirect, associated with the surgery, including costs attributable to other providers and hospitals except for the providers who rendered the second or third opinion. If the physician is unable to secure the required second or third opinions to support the surgical procedure, the second surgical opinion form shall be submitted to the department within 135 days of the date of the first opinion. Failure to comply with this subpart may result in termination of the provider's agreement with the department. The department shall send the recipient a copy of the notice of a denial of the surgery and a statement of the recipient's right to appeal as provided in Minnesota Statutes, section 256.045.

**Subp. 12. Documentation of exemptions.** When the surgical procedure is exempt under subpart 2 from the second or third opinion requirement, the provider shall submit documentation to support the basis of the exemption with the claim for payment. In the alternative, approval of the exemption may be requested. The request shall be submitted on a form supplied by the department and attached to a prior authorization form. If the requests are approved, an authorization number will be assigned.

**Subp. 13. Independent physician evaluation.** The commissioner shall have the right to order an independent evaluation by a physician selected by the commissioner when the commissioner has reason to believe the requested surgical procedure is not necessary. If the selected physician determines the procedure is not necessary, the commissioner shall deny approval.

**Subp. 14. Fair hearings; appeals.** A recipient who disagrees with the department's action may request a fair hearing as provided in part 9505.5020 [Emergency], subpart 7. The right to appeal under Minnesota Statutes, sections 14.57 to 14.62 shall not apply to the list of surgical procedures established according to Minnesota Statutes, section 256B.02, subdivision 8.

**APPLICATION.** Notwithstanding any rule or law to the contrary, upon the expiration of the emergency amendments to Minnesota Rules, parts 9500.0980; 9500.1070, subparts 4, items A, and B, subitems (1) and (5); 6, items A, subitem (3); B, subitem (3); C, subitem (1); D, subitem (1), and that part of subitem (2) which reads: "The medical assistance program will pay for multiple family group-psychotherapy or group-psychotherapy for up to two hours per week for a ten-week period"; 7, item A; 10, item E, subitems (1), (2), (3), and (4); 16, item A; and 18, item B; and that part of subpart 19, item D, which reads: "Prior authorization must be obtained on any services for which payment is claimed under this section,"; and 9505.1020, subpart 4, items Q and R, the permanent parts amended are reinstated.

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

## ADOPTED RULES

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

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

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

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

## Housing Finance Agency

### Adopted Rules Governing Home Energy Loans

The rules proposed and published at *State Register*, Volume 8, Number 50, pages 2648-2650, June 11, 1984 (8 S.R. 2648) are adopted with the following modifications:

#### Rules as Adopted

##### 4900.0592 ELIGIBLE PROPERTIES.

The property to be improved by a home energy loan is restricted as follows:

E. ~~Mobile homes are not eligible for a home energy loan~~ A manufactured or factory-made house is eligible for home energy loans only if it is permanently fixed to land by way of a foundation and is taxed as real property.

## 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.

## Department of Economic Security

### Outside Opinion Sought Concerning the Rule Governing the Summer Youth Employment

Notice is hereby given that the Department is seeking information or opinions from sources outside the Department in preparing to amend Minnesota Rules, parts 3300.0100 to 3300.0700, governing the Summer Youth Employment Program (Governor's Youth Program), pursuant to Minnesota Statutes, section 14.10.

The amendment of the rule is authorized by Minnesota Statutes, section 268.33, which permits the Department to promulgate rules regarding eligibility for employment and placement under this program.

The Department requests information and comments concerning the subject matter of the rule. Interested or affected persons or groups may submit statements of information or comment orally or in writing.

Statements should be submitted to:

Larry Cheetham  
Youth Services Supervisor  
Department of Economic Security  
5th floor  
390 North Robert St.  
St. Paul, MN 55101  
(612) 296-6734

Any written material received by the Department shall become part of the rulemaking record in the event the rule is adopted.

All statements of information and comment shall be accepted until 4:30 p.m. on September 17, 1984.

Michael J. Fratto  
Rules Coordinator  
Department of Economic Security

## **Department of Energy and Economic Development Minnesota Energy and Economic Development Authority**

### **Notice of Public Hearing on Proposed Project and the Issuance of Bonds Under Minnesota Statutes, Section 116M.01 to Section 116M.13, Inclusive—Englund Graphics, Inc.**

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority"), shall meet on September 26, 1984, at 3:00 p.m., at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota Statutes*, Section 116M.01 to Section 116M.13, inclusive, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of Englund Graphics, Inc. (the "Company"), a Minnesota corporation, engaged in the business of designing and manufacturing forms for business and commercial use in Minnesota. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the construction of a new building on land to be acquired by the Company and the equipping thereof for use in connection with its business operations in the design and manufacture of forms for business and commercial use, to be located in City of New Hope, Hennepin County, Minnesota (street address: 49th Avenue North at Flag Avenue, New Hope, Minnesota) (the "Project"). The initial owner, operator and manager of the Project will be the Company. The estimated maximum amount of the proposed bond issue is an amount equal to \$500,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

August 22, 1984.

By Order of the Members of the  
Minnesota Energy and Economic  
Development Authority,  
Lyn Burton, Vice Chair

## **Department of Energy and Economic Development Minnesota Energy and Economic Development Authority**

### **Notice of Public Hearing on Proposed Project and the Issuance of Bonds Under Minnesota Statutes, Section 116M.01 to Section 116M.13, Inclusive—H & D Properties**

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority"), shall meet on September 26, 1984, at 3:00 p.m., at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul,

## OFFICIAL NOTICES

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Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota Statutes*, Section 116M.01 to Section 116M.13, inclusive, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of H & D Properties (the "Company"), a Minnesota partnership. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the improvement of an existing building on land owned by the Company and the construction of a new building on land to be acquired by the Company and the equipping thereof all to be leased to J & B Wholesale Distributing, Inc. for use in connection with its business operations in the wholesale distribution of meat and food products, to be located in the City of Michael, Wright County, Minnesota and the Township of Frankfort, Wright County, Minnesota (street address: 401 East Central, St. Michael, Minnesota; and approximately one mile south of Interstate Highway 94 on State Highway 241 in the Township of Frankfort, Wright County, Minnesota) (the "Project"). The initial owner, operator and manager of the Project will be the Company (together with J & B Wholesale Distributing, Inc. as operator and manager). The estimated maximum amount of the proposed bond issue is an amount equal to \$1,000,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

August 22, 1984.

By order of the Members of the  
Minnesota Energy and Economic  
Development Authority,  
Lyn Burton, Vice Chair

## Department of Finance

### Notice of Maximum Interest Rate for Municipal Obligations, August 20, 1984

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Gordon M. Donhowe, announced today that the maximum interest rate for municipal obligations in the month of September will be twelve (12) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to thirteen (13) percent per annum.

For further information contact:

Peter Sausen, Director  
Debt Management  
State of Minnesota  
Department of Finance  
(612) 296-8372

## Department of Human Services Income Maintenance Bureau

### Outside Opinion Sought Concerning Determination of Eligibility to Receive Medical Assistance Program Benefits

Notice is hereby given that the Minnesota Department of Human Services is considering draft amendments to the Department of Human Services Medical Assistance Rule.

This rule authorized by Minnesota Statutes, Chapter 256B, governs eligibility for the Medical Assistance Program including requirements of age, residence, citizenship, income, and resource limits; the use of the income and resources of responsible relatives to pay for medical services of a medical assistance program applicant or recipient; the right of a recipient to a free choice of provider and the rights of applicants and recipients to a fair hearing and appeal. This rule also contains a description of the services covered under the Medical Assistance Program.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment regarding eligibility standards for the Medical Assistance Program may be addressed to:

Mary Kennedy  
Health Care Programs Division  
First Floor Space Center  
444 Lafayette Road  
St. Paul, MN 55101

Written statements of information and comment on covered services under the Medical Assistance Program may be addressed to:

Larry Woods  
Department of Human Services  
Second Floor Space Center  
444 Lafayette Road  
St. Paul, MN 55101

Oral statements of information and comment will be received during regular business hours over the telephone at 612/297-3200.

All statements of information and comment will be accepted until further notice is given. Any written material received by the department shall become part of the hearing record.

## **Department of Labor and Industry Prevailing Wage Division**

### **Notice of Establishment of Prevailing Wage Rates**

On August 27, 1984 the commissioner certified the following prevailing wage rates for Telecommunications Systems Technician and Telecommunications Systems Installers in Hennepin county for commercial construction.

| <b>Code Number &amp;<br/>Classifications</b> | <b>Basic<br/>Rate per<br/>Hour</b> | <b>Fringe</b> | <b>Prevailing Hourly<br/>Rate Which<br/>Must Be Paid</b> |
|--|------------------------------------|---------------|--|
| 430 Telecommunications Systems Technician    | 13.94                              | 4.18          | 18.12  |
| 431 Telecommunications Systems Installer     | 13.61                              | 4.22          | 17.83  |

Steve Keefe, Commissioner  
Department of Labor and Industry

## **Pollution Control Agency**

### **Notice of Permanent List of Priorities Among Releases or Threatened Releases of Hazardous Substances, Pollutants or Contaminants**

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is publishing for public comment its proposed Permanent List of Priorities among releases or threatened releases of hazardous substances, pollutants or contaminants for which the MPCA intends to take removal or remedial action. The statutory basis for and an explanation of the MPCA's proposed Permanent List of Priorities is discussed below.

Pursuant to the Environmental Response and Liability Act, Minnesota Laws, 1983, Chapter 115B (ERLA) the MPCA is authorized to take any removal or remedial action which the MPCA deems necessary to protect the public health or welfare or environment whenever there is a release or substantial threat of release from a facility of any pollutant or contaminant

## OFFICIAL NOTICES

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which presents an imminent and substantial danger or whenever a hazardous substance is released or there is a threatened release of a hazardous substance from a facility.

ERLA (Section 17, Subd. 13) requires the MPCA to establish prioritization rules and a permanent list of priorities among releases or threatened releases of hazardous substances, pollutants or contaminants. The prioritization rules, MPCA Chapter 7044, were effective July 1, 1984. The proposed Permanent List of Priorities were developed according to the process set forth in MCAR 7044.0400. Each site listed has been ranked using the modified Hazard Ranking System (HRS) method, as required by MCAR 7044.1000. Each site has also passed the prescreening test of MCAR 7044.1200 for eligibility.

The numerical scores generated by the HRS scoring process should not be interpreted as exact number priorities. The scores shown indicate the relative ranking and general classification of sites, but sites with scores within approximately ten points of each other may be considered roughly equivalent in terms of a known or possible public health or environmental threat.

The proposed Permanent List of Priorities reflects the "relative risk or danger to public health or welfare or the environment, taking into account to the extent possible the population at risk, the hazardous potential of the hazardous substances at the facilities, the potential for contamination of drinking water supplies, the potential for human contact, the potential for destruction of sensitive ecosystems, the administrative and financial capabilities of the agency, and other appropriate factors" (ERLA, Section 17, Subdivision 13).

"Removal" actions are defined in ERLA to include cleanup or removal of released hazardous substances, pollutants or contaminants, actions necessary to monitor, test, analyze and evaluate releases or threatened releases, provision of alternative water supplies, security fencing, temporary evacuation and housing of threatened individuals and emergency assistance.

"Remedial" actions, on the other hand, are defined in ERLA to include actions consistent with permanent remedy instead of or in addition to "Removal" actions.

Generally, the cleanup of a hazardous waste site involves a three phase program:

- 1) Remedial Investigation/Feasibility Study—investigation of the extent, magnitude and nature of the release or threatened release, and identification and selection of the most cost effective removal or remedial action(s), and
- 2) Remedial Design—detailed design of the selected cost effective removal or remedial action(s), and
- 3) Response Action—implementation of removal or remedial action(s).

All proposed PLP sites have been assigned to one or more response action classes as required by MCAR 7044.0300. The proposed PLP is presented by response action class. Each of the four response action classes is defined as follows:

**CLASS A—Declared emergencies.** This class includes those sites at which an official emergency has been declared by the MPCA Director pursuant to ERLA. According to MCAR 7044.0200, an "emergency" means that there is an imminent risk of fire or explosion, that a temporary water supply is needed where an advisory has been issued, or that immediate adverse human health effects may be anticipated due to direct contact or inhalation, and an advisory has been issued. An "advisory" means a warning by the MPCA Director, Minnesota Department of Health, Minnesota Department of Natural Resources, or the Minnesota Department of Agriculture issued to the public concerning a hazardous substance, or pollution or contamination at or near a facility.

**CLASS B—Long-term monitoring and/or operation and maintenance at a site that has undergone previous response actions.** This class includes those sites where activities are necessary to maintain response action(s) that have previously been completed. Examples include continuing operation of a ground water pump-out system at a site, long-term monitoring, and work necessary to maintain the integrity of the site, such as maintaining cover or closure at a site.

**CLASS C—Other response actions which may include the first year costs associated with operation and maintenance at a site.** This class includes all sites where remedial design and implementation of response actions (other than Class A or B) such as barrel removals, decontamination, first year ground water pump-out or monitoring, and other activities that are necessary to effect a permanent remedy or cleanup of the site. This class also includes the design phase in preparation for a response action, such as designing a ground water pump out system or a barrel removal action.

**CLASS D—Remedial investigations and feasibility studies (RI/FS).** This class includes all sites which require investigation of the extent, magnitude and nature of the release or threatened release and classification and selection of the most cost effective response action(s).

Based upon the above considerations, the proposed Permanent List of Priorities is offered for public comment. Sources of funds for removal or remedial actions at the sites listed includes federal Superfund (CERCLA), state Superfund (ERLA), a combination of both federal and state monies, and funding provided by the responsible parties, if any exist.

All sites in the four classes are presented in order of the modified HRS Score. Sites that are listed or proposed for listing on the National Priority List (NPL) are so indicated. Cleanup consent orders or stipulation agreements are noted if such agreements have been executed between the MPCA and the responsible party(ies).

STATE OF MINNESOTA  
Environmental Response and Liability Act  
Proposed Permanent List of Priorities  
August, 1984

CLASS A SITES  
Declared Emergencies

| <u>Site</u>  | <u>Score</u> | <u>NPL</u> | <u>Comments</u> |
|--|--------------|------------|-----------------|
| New Brighton/Arden Hills   | 59           | X          |                 |
| Northern Township Ground Water Contamination (Kummer Sanitary Landfill), Beltrami County | 42           |            |                 |
| Long Prairie Ground Water Contamination  | 40           | P          |                 |
| Adrian Ground Water Contamination  | 34           | P          |                 |
| Askov Ground Water Contamination   | 18           |            |                 |

CLASS B SITES  
Long Term Monitoring/Operation and Maintenance

| <u>Site</u>   | <u>Score</u> | <u>NPL</u> | <u>Comments</u>       |
|---|--------------|------------|-----------------------|
| FMC Corp., Fridley  | 66           | X          | Consent Order 6/8/83  |
| Boise Cascade/Medtronic, Fridley                              | 59           | X          | Consent Order 1/25/83 |
| Oakdale Dump  | 59           | X          | Consent Order 7/26/83 |
| Koppers Coke, St. Paul  | 55           | X          |                       |
| Washington County Landfill, Lake Elmo                         | 42           | X          |                       |
| Hastings Dump   | 31           |            |                       |
| Advance Transformer/Ironwood Sanitary Landfill, Spring Valley | 16           |            |                       |
| 3M Kerrick Disposal Site, Kerrick                             | 9            |            | Consent Order 1/24/84 |

CLASS C SITES  
Other Response Actions/First Year Operation and Maintenance

| <u>Site</u>  | <u>Score</u> | <u>NPL</u> | <u>Comments</u>               |
|--|--------------|------------|-------------------------------|
| Boise Cascade/Onan, Fridley                          | 59           | X          |                               |
| New Brighton/Arden Hills                             | 59           | X          |                               |
| Oakdale Dump   | 59           | X          | Consent Order 7/26/83         |
| Reilly Tar & Chemical, St. Louis Park                | 59           | X          |                               |
| MacGillis & Gibbs/Bell Lumber and Pole, New Brighton | 56           | X          |                               |
| Koppers Coke, St. Paul                               | 55           | X          |                               |
| St. Regis Paper, Cass Lake                           | 53           | X          |                               |
| PCI, Inc., Shakopee                                  | 52           |            |                               |
| Waste Disposal Engineering, Andover                  | 51           | X          |                               |
| Pine Bend Sanitary Landfill, Inver Grove Heights     | 48           | P          |                               |
| Oak Grove Sanitary Landfill, Anoka County            | 48           |            |                               |
| Burlington Northern, Brainerd                        | 47           | X          |                               |
| Ashland Oil, Cottage Grove                           | 46           |            |                               |
| University of Minnesota, Rosemount Research Center   | 46           | P          |                               |
| Joslyn Mfg. and Supply Co., Brooklyn Center          | 44           | X          |                               |
| Union Scrap, Minneapolis                             | 43           | X          | Stipulation Agreement 8/23/83 |
| LeHillier/Mankato                                    | 42           | X          |                               |
| Kummer Sanitary Landfill, Beltrami County            | 42           | P          |                               |

# OFFICIAL NOTICES

|   |    |   |  |
|---|----|---|--|
| Washington County Landfill, Lake Elmo                         | 42 | X |  |
| Long Prairie Ground Water Contamination                       | 40 | P |  |
| Arrowhead Refinery Co., Hermantown                            | 40 | X |  |
| Whittaker Corp., Minneapolis                                  | 40 | X |  |
| NL Industries/Taracorp/Golden Auto, St. Louis Park            | 40 | X |  |
| Kurt Mfg., Fridley  | 40 | P |  |
| General Mills/Henkel Corp., Minneapolis                       | 39 | X |  |
| Morris Arsenic Site, Morris                                   | 38 | X |  |
| Perham Arsenic Site, Perham                                   | 38 | X |  |
| South Andover, Andover  | 35 | X |  |
| Winona County Sanitary Landfill                               | 34 | P |  |
| Maple Plain Dump  | 34 |   |  |
| Adrian Ground Water Contamination                             | 34 | P |  |
| St. Louis River/Interlake, Duluth                             | 32 | X |  |
| St. Louis River/U.S. Steel, Duluth                            | 32 | X |  |
| Agate Lake Scrapyard, Brainerd                                | 31 | P |  |
| Honeywell, Inc., Golden Valley                                | 31 |   |  |
| Hastings Dump   | 31 |   |  |
| Lost Lake Dump (Tonka/Mound) Mound                            | 30 |   |  |
| Isanti Solvent Sites, Isanti County                           | 30 |   |  |
| Ritari, Post and Pole Co., Wadena County                      | 27 |   |  |
| Electronic Industries, Inc., New Hope                         | 26 |   | Stipulation Agreement 1/24/84                                |
| Wadena Arsenic Site, Wadena Co.                               | 25 |   |  |
| Weisman Scrap, Winona   | 24 |   |  |
| Sonford Products, St. Paul Park                               | 22 |   |  |
| Ashland Oil, Pine County                                      | 22 |   |  |
| Askov Ground Water Contamination                              | 18 |   |  |
| Boise Cascade Paint Waste Dump, Rainer                        | 17 |   |  |
| Advance Transformer/Ironwood Sanitary Landfill, Spring Valley | 16 |   |  |
| Duluth Missabe & Iron Range Railway, Proctor                  | 11 |   |  |
| DNR—Duxbury Pesticide Site, Duxbury                           | 11 |   |  |
| Duluth Air Force Base   | 10 |   |  |
| Tonka/Woyke Site, Annandale                                   | 9  |   |  |
| DNR—Nett Lake/Orr Pesticide Site, Greaney                     | 9  |   |  |
| Northwest Refinery, New Brighton                              | 9  |   |  |
| Hutchinson Technology Inc., Hutchinson                        | 9  |   |  |
| Ford Twin Cities Assembly Plant, St. Paul                     | 8  |   |  |
| White Bear Lake Township Dump, Ramsey County                  | 7  |   |  |
| Superior Plating, Minneapolis                                 | 6  |   |  |
| Minnegasco, Minneapolis                                       | 6  |   |  |
| McLaughlin Gormley King, Minneapolis                          | 4  |   |  |
| Airco Lime Sludge Pit, Minneapolis                            | 3  |   |  |
| Hopkins Ag. Chem./Allied Chem., Minneapolis                   | 3  |   |  |
| 43 E. Water St., St. Paul                                     | 3  |   |  |
| Ecolotech Inc., St. Paul                                      | 3  |   | Consent Order 3/27/84<br>Existing fire and explosion hazard. |
| Ecolotech Inc., Minneapolis                                   | 2  |   | Consent Order 3/27/84<br>Existing fire and explosion hazard. |
| Metals Reduction, St. Paul                                    | 2  |   |  |

**CLASS D SITES**  
Remedial Investigations/Feasibility Studies

| <u>Site</u>  | <u>Score</u> | <u>NPL</u> | <u>Comments</u>               |
|--|--------------|------------|-------------------------------|
| FMC Corp., Fridley   | 66           | X          | Consent Order 6/8/83          |
| U.S. Naval Industrial Reserve Ordnance Plant (Navy), Fridley                             | 63           | P          |                               |
| New Brighton/Arden Hills   | 59           | X          |                               |
| Reilly Tar & Chemical, St. Louis Park  | 59           | X          |                               |
| MacGillis & Gibbs/Bell Lumber and Pole, New Brighton                                     | 56           | X          |                               |
| Koppers Coke, St. Paul   | 55           | X          |                               |
| St. Regis Paper, Cass Lake   | 53           | X          |                               |
| Koch Refining/N-ReN, Rosemount   | 52           | P          |                               |
| PCI, Inc., Shakopee  | 52           |            |                               |
| Nutting Truck and Caster Co., Faribault  | 51           | X          | Consent Order 4/26/84         |
| Waste Disposal Engineering, Andover  | 51           | X          | Consent Order 3/20/84         |
| Anoka Municipal Sanitary Landfill, Ramsey  | 51           |            |                               |
| Pine Bend Sanitary Landfill, Inver Grove Heights   | 48           | P          |                               |
| Oak Grove Sanitary Landfill, Anoka County  | 48           |            |                               |
| Burlington Northern, Brainerd  | 47           | X          |                               |
| Ashland Oil, Cottage Grove   | 46           |            |                               |
| University of Minnesota, Rosemount Research Center                                       | 46           | P          |                               |
| Joslyn Mfg., and Supply Co., Brooklyn Center   | 44           | X          |                               |
| Union Scrap, Minneapolis   | 43           | X          | Stipulation Agreement 8/23/83 |
| LeHillier/Mankato  | 42           | X          |                               |
| Northern Township Ground Water Contamination (Kummer Sanitary Landfill), Beltrami County | 42           |            |                               |
| Kummer Sanitary Landfill, Beltrami County  | 42           | P          |                               |
| Long Prairie Ground Water Contamination  | 40           | P          |                               |
| Arrowhead Refinery Co., Hermantown   | 40           | X          |                               |
| East Bethel Demolition Landfill, East Bethel   | 40           |            |                               |
| Whittaker Corp., Minneapolis   | 40           | X          |                               |
| NL Industries/Taracorp/Golden Auto, St. Louis Park                                       | 40           | X          |                               |
| Kurt Mfg., Fridley   | 40           | P          |                               |
| General Mills/Henkel Corp., Minneapolis  | 39           | X          |                               |
| Freeway Sanitary Landfill, Burnsville  | 38           |            |                               |
| Windom Dump  | 38           | P          |                               |
| Morris Arsenic Site, Morris  | 38           | X          |                               |
| South Andover, Andover   | 35           | X          |                               |
| Wabasha County Sanitary Landfill   | 35           |            |                               |
| Winona County Sanitary Landfill  | 34           | P          |                               |
| La Grand Sanitary Landfill, Douglas County   | 34           |            | Stipulation Agreement 4/26/83 |
| Maple Plain Dump   | 34           |            |                               |
| Adrian Ground Water Contamination  | 34           | P          |                               |
| 3M Chemolite, Cottage Grove  | 33           |            |                               |
| St. Louis River/Interlake, Duluth  | 32           | X          |                               |
| St. Louis River/U.S. Steel, Duluth   | 32           | X          |                               |
| Agate Lake Scrapyard, Brainerd   | 31           | P          |                               |
| Honeywell, Inc., Golden Valley   | 31           |            |                               |
| Hastings Dump  | 31           |            |                               |
| Olmsted County Sanitary Landfill   | 31           | P          |                               |
| Lost Lake Dump (Tonka/Mound), Mound  | 30           |            |                               |
| Isanti Solvent Sites, Isanti County  | 30           |            |                               |
| Western Lake Superior Sanitary District Landfill, St. Louis County                       | 29           |            |                               |
| Ritari Post and Pole Company, Wadena County  | 27           |            |                               |
| Electronic Industries, Inc., New Hope  | 26           |            | Stipulation Agreement 1/24/84 |
| Wadena Arsenic Site, Wadena Co.  | 25           |            |                               |

# OFFICIAL NOTICES

|   |    |                               |
|---|----|-------------------------------|
| St. Augusta Sanitary Landfill, Stearns County | 25 |                               |
| Weisman Scrap, Winona                         | 24 |                               |
| Sonford Products, St. Paul Park               | 22 |                               |
| Ashland Oil, Pine County                      | 22 |                               |
| Sanborn Mfg., Springfield                     | 20 | Stipulation Agreement 7/24/84 |
| Askov Ground Water Contamination              | 18 |                               |
| Clay County Sanitary Landfill                 | 17 |                               |
| Boise Cascade Paint Waste Dump, Rainer        | 17 |                               |
| Hopkins Sanitary Landfill                     | 15 |                               |
| Crow Wing County Sanitary Landfill            | 14 |                               |
| Waseca County Sanitary Landfill               | 13 |                               |
| Duluth Missabe & Iron Range Railway, Proctor  | 11 |                               |
| DNR—Duxbury Pesticide Site, Duxbury           | 11 |                               |
| Duluth Air Force Base                         | 10 |                               |
| Tonka/Woyke Site, Annandale                   | 9  |                               |
| DNR—Nett Lake/Orr Pesticide Site, Greaney     | 9  |                               |
| Hutchinson Technology, inc., Hutchinson       | 9  |                               |
| Ford Twin Cities Assembly Plant, St. Paul     | 8  |                               |
| White Bear Lake Township Dump, Ramsey County  | 7  |                               |
| Superior Plating, Minneapolis                 | 6  |                               |
| Minnegasco, Minneapolis                       | 6  |                               |
| McLaughlin Gormley King, Minneapolis          | 4  |                               |
| Hopkins Ag. Chem./Allied Chem., Minneapolis   | 3  |                               |
| 43 E. Water St., St. Paul                     | 3  |                               |
| Metals Reduction, St. Paul                    | 2  |                               |

## Notes:

Score—Hazard Ranking System (HRS) score.

NPL—National Priority List. X = Currently listed on NPL. P = Proposed for listing on NPL; score shown is subject to EPA audit.

The Permanent List of Priorities will be updated annually, as required by MCAR 7044.0600, according to the criteria set forth in MCAR Chapter 7044. Notice of any modification of the Permanent List of Priorities will be published in the *State Register* for the purpose of soliciting public comments.

Additional information regarding specific sites on the proposed Permanent List of Priorities may be obtained by contacting the Public Information Office, MPCA, 1935 West County Road B2, Roseville, Minnesota 55113, (612) 296-7373.

The MPCA invites members of the public to submit written comments on the proposed Permanent List of Priorities. All comments should be submitted to and received by Jan Falteisek, Minnesota Pollution Control Agency, Solid and Hazardous Waste Division, 1935 West County Road B2, Roseville, Minnesota 55113, no later than 4:30 p.m., October 3, 1984.

All written comments will be considered by the MPCA in the establishment of the Permanent List of Priorities.

## Teachers Retirement Association

### Meeting Notice, Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, September 21, 1984, at 9 a.m. in Room 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

# STATE CONTRACTS

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

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

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-2513. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

## Department of Administration Procurement Division

### Commodities Contracts Currently Open for Bidding

| Requisition #      | Item                                       | Ordering Division                    | Delivery Point   | Estimated Dollar Amount |
|--------------------|--|--------------------------------------|------------------|-------------------------|
| Contract           | Handicraft & Occupational Therapy Supplies | Various                              | Various          | Contact buyer           |
| 21-602-83847       | Van  | Vocational Rehabilitation Division   | Minneapolis      | Contact buyer           |
| 79-250-00276       | Box Beam Guardrail—Rebid                   | Transportation                       | Crookston        | Contact buyer           |
| 26-073-06661       | Walkway Lighting                           | St. Cloud State University           | St. Cloud        | Contact buyer           |
| 02-410-43595       | Purchase of Squeeziplaxers                 | Administration—Info. Services Bureau | St. Paul         | Contact buyer           |
| 27-148-42130, etc. | Athletic Tape                              | Various                              | Various          | Contact buyer           |
| Contract           | Cover Book Board                           | MN Correctional Facility             | Oak Park Heights | \$35,000-\$36,000       |
| Contract           | Fiber Fuel Pellets                         | Natural Resources                    | Various          | \$16,000-18,000         |
| 26-071-14588       | Stereo Audio Console                       | Mankato University                   | Mankato          | Contact buyer           |
| 55-304-06485       | Small Piece Folder                         | Brainerd Hospital                    | Brainerd         | Contact buyer           |
| Contract           | State Duplicating Overload                 | Central Dupl.                        | St. Paul         | \$100,000-150,000       |
| 78-620-20422       | Farm Wagon—rebid                           | MN Correctional Facility             | Stillwater       | Contact buyer           |
| 79-900-02805       | Move of Steel Frame Metal Siding Building  | Transportation                       | N. St. Paul.     | Contact buyer           |
| 22-400-00549, 2046 | Winter Guide                               | Tourism                              | St. Paul         | Contact buyer           |
| 22-400-00553, 2042 | Group Travel Planning Guide                | Tourism                              | St. Paul         | Contact buyer           |
| 22-400-00551, 2043 | International Bro.                         | Tourism                              | St. Paul         | Contact buyer           |
| 07-700-31802, 1727 | Record of Drivers License Exam             | Public Safety                        | St. Paul         | Contact buyer           |
| 21-602-83747       | Addendum # 1 Van                           | Vocational Rehabilitation            | Mpls.            | Contact buyer           |
| 21-200-08636       | Electronic Key Telephone System            | Economic Security                    | Minnetonka       | Contact buyer           |
| 07-300-30872, etc. | Cars Addendum # 2                          | Public Safety                        | St. Paul         | Contact buyer           |
| 27-157-42527       | Moviola Editing Table                      | Film In the Cities                   | St. Paul         | Contact buyer           |
|                    |  | Inver Hills Community College        |                  |                         |
| 26-073-16775       | Repair tennis courts                       | St. Cloud State Universities         | St. Cloud        | Contact buyer           |
| 29-000-36222 & 5   | Lease/Purch. Word Processing System        | Natural Resources                    | St. Paul         | Contact buyer           |
| 26-071-14589       | Audio Tape Recorder/Producer               | Mankato University                   | Mankato          | Contact buyer           |

Contact the receptionist at 296-2513 for referral to specific buyers.

## **Department of Energy and Economic Development Energy Division**

### **Notice of Availability of Community Energy Council Grant Funds**

Pursuant to Minnesota Rules 4160.5100-4160.5900. The Department of Energy and Economic Development announces that it is accepting applications for community energy council grants from cities and counties, individually, collectively, or through the exercise of joint powers agreements. The maximum amount of a grant to an individual applicant is \$15,000. The maximum amount of a grant to a joint application is \$15,000 for the first applicant and \$12,000 for each additional applicant to a maximum of \$50,000. All grants require a ten percent local match.

Funds are available from two sources, as follows:

- 1) Legislative appropriation of \$145,000. Funds are available from this source to support a variety of local energy programs in different energy use sectors.
- 2) Amoco Second Stage Refund of \$165,000. To qualify for a grant from this source, applicants must propose a transportation energy conservation program from the following list:
  - a. Public transit or ride share promotions
  - b. Car care clinics
  - c. Driver education for energy efficient driving habits
  - d. Bike and hike days
  - e. Traffic flow synchronization
  - f. Other transportation energy conservation projects.

Applicants may also propose additional projects introduced above in 1) and detailed in the program rules.

Applications must be received no later than 4:30 p.m. on October 3, 1984, at the address given below.

Application forms, program rules and other information can be obtained by contacting:

Mark Schoenbaum  
Department of Energy and Economic Development  
900 American Center Bldg.  
150 E. Kellogg Blvd.  
St. Paul, MN 55101  
(612) 297-3602

## **Department of Energy and Economic Development Energy Finance Division**

### **Request for Proposals for Consultants for District Heating Projects**

The Department of Energy and Economic Development (DEED), Energy Finance Division, is seeking consultants or a firm with experience in the legal, financial and engineering fields to provide consulting work to district heating projects in Minnesota on a retainer basis. The consultant selected must have experience or extensive knowledge in the district heating field.

Types of services which consultants may be expected to perform include but are not limited to the following: reviewing and providing advice on contracts or service agreements used by the district heating utility assistance in analyzing the financial feasibility of projects, attending and/or facilitating contract negotiations meetings, reviewing district heating loan applications, making recommendations to DEED on specific policy questions, and on-site assistance in communities as needed. These services, which will be provided under contract, are outlined in detail in the Request for Proposals which may be obtained from:

Mary Lesch-Gormley  
Department of Energy and Economic Development  
900 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 297-2324

The retainer contract will not exceed \$40,000 and will remain in effect until June 30, 1985. Consultants currently under contract with the DEED Phase II grant recipients or loan applicants will not be eligible. The deadline for submission of proposals will be 4:30 p.m. September 24, 1984.

## **Metropolitan Waste Control Commission**

### **Request for Proposals for Ash Utilization/Disposal**

The Metropolitan Waste Control Commission is seeking proposals from qualified firms with an interest in the utilization/disposal of ash generated through the incineration of wastewater treatment plant sludges. The Commission's Metropolitan Wastewater Treatment Plant (Metro) is a large (200 + mgd) secondary treatment facility with the capability to provide seasonal nitrification. The sludges generated at Metro are conditioned by thermal means or organic polymers, dewatered on roll presses or plate and frame presses, and subsequently burned in multiple hearth incinerators. This project consists of removing ash from the Metro Plant and utilizing/disposing it in accordance with applicable state, federal, and local regulations as well as obtaining all necessary permits and/or approvals. It is anticipated that ash production will remain in the range of 25,000 to 30,000 dry tons per year.

Proposals will be received by the Commission until 10:00 a.m., Thursday, November 8, 1984. A preproposal conference will be held at 9:00 a.m., September 26, 1984.

Additional information related to this project is provided in the document entitled: Request for Proposals—Ash Utilization/Disposal. Copies of this document are available from the Metropolitan Waste Control Commission, 350 Metro Square Building, 7th & Robert Streets, St. Paul, MN 51501, Attention: R. C. Polta, Telephone: (612) 222-8423.

August 21, 1984

By order of the  
Metropolitan Waste Control Commission

Mr. Louis J. Breimhurst  
Deputy Chief Administrator

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## **SUPREME COURT**

### **Decisions of the Court of Appeals Filed Tuesday, August 21, 1984**

**Compiled by Wayne O. Tschimperle, Clerk**

**CX-83-1834 Northfork Township v. Garrett Joffer and Mildred Joffer, His Wife, Appellants. Stearns County.**

The Marketable Title Act does not bar a township from asserting an unregistered interest in a road where intermittent use and maintenance established a statutory dedication of the road to the public.

The party whose land the road bisects may use the road but may not materially interfere with public use.

Affirmed. Popovich, C.J.

**C9-83-1517 State of Minnesota v. Steven Scott Manley, Appellant. Kandiyohi County.**

Permitting amendment of the complaint after the close of evidence was error where the amendment invoked a statutory presumption which was not previously applicable and shifted the burden of proceeding to the defendant.

Reversed. Popovich, C.J.

**CX-83-1929 Mary Jo Beaty, Relator, v. Minnesota Board of Teaching. Minnesota Board of Teaching.**

The Minnesota Board of Teaching's failure to apply equitable estoppel to the fact of this case is an error of law.

The Minnesota Board of Teaching's decision to deny appellant's application for school psychologist licensure is arbitrary and capricious.

Reversed and remanded. Popovich, C.J.

## SUPREME COURT

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**C2-84-347 State of Minnesota v. Edward John Tiessen, Appellant. Mahnomon County.**

The jury was entitled to reject appellant's intoxication defense and finding that appellant had the requisite intent to commit burglary and theft.

There is no merit to appellant's claim of errors requiring a new trial, including inadequate counsel, racially motivated peremptory challenges, confrontation violation and suggestive pretrial identification procedures.

Affirmed. Parker, J.

**C4-83-1201 State of Minnesota v. Richard St. Cyr, Appellant. Anoka County.**

The evidence was sufficient to convict appellant of attempted murder in the second degree and assault in the second degree.

The trial court did not err in excluding expert psychiatric opinion testimony that the defendant, at the time of the alleged offense, lacked the mental capacity to form specific intent when the defense of lack of mental capacity was not asserted.

Affirmed. Parker, J.

**C5-84-195 Americana State Bank v. Marilyn Jensen, Ida Rasmussen, Appellant. Freeborn County.**

A creditor may not obtain a deficiency judgment against the guarantor on a note securing a small consumer credit transaction covered by Minn. Stat. § 325G.22 (1982) where the creditor elected to repossess the collateral securing the note.

Reversed. Parker, J.

**C1-83-2046 State of Minnesota v. John George Voracek, Appellant. Rice County.**

Minn. Stat. § 169.121, subd. 1(a) and subd. 1(d), are separate offenses; one cannot be convicted of violating subdivision 1(d) when charged only with violating subdivision 1(a).

Reversed. Parker, J.

**C4-84-382 Western World Insurance Company, Inc., Appellant, v. Darlene Hall, and Sharona Corporation and Andrew Care Home, Inc., Its Predecessor in Interest, Third Party Plaintiffs, v. John A. Lietzke, Individually, and Brandow, Howard, Kollar and Rosenbloom, Inc., Third Party Defendants. Hennepin County.**

In the absence of specific language negating the question of capacity or intent, a self-inflicted injury exclusion in a third-party liability policy excludes coverage only for intentionally self-inflicted injuries.

The insured did not misrepresent its admission policies in its application for insurance.

The trial court erred in awarding attorneys' fees incurred in connection with settlement attempts and defense of the claim on the merits.

Affirmed in part, reversed in part. Parker, J.

**C6-84-156 State of Minnesota v. Richard Belfry, Appellant. Hennepin County.**

Evidence of criminal intent was sufficient to support defendant's conviction of theft by swindle. Failure to object to aggregation of theft offenses was waived. The court properly permitted separate offenses to be included into one complaint.

Affirmed. Foley, J.

**C4-84-12 Owatonna Country Club, Inc. v. Esther V. Kohlmier, Appellant. Steele County.**

The evidence sustains the trial court's finding that appellant intended to convey a parcel of land and its conclusion that the deed should be reformed to correct an ambiguity in the legal description.

Affirmed. Foley, J.

**C4-84-401 CRE Restaurant Company, Inc., Relator, v. State of Minnesota, Department of Economic Security. Hennepin County.**

Where a successor employer acquires the assets of its predecessor by foreclosure and voluntarily continues the essential character of the business, the successor employer assumes the experience rating of its predecessor.

Affirmed. Foley, J.

**C1-84-596 Spetz & Berg, Inc., Appellant, v. Luckie Construction Co., Inc., Defendant, Balboa Insurance Company. Hennepin County.**

Strict compliance with the notice of claim requirements of Minnesota Statutes Section 574.31 is a condition precedent to the maintenance of an action against a surety on a contractor bond.

Affirmed. Wozniak, J.

**C8-84-353 Thomas L. Bow, et al., Appellants, v. Aloysius J. Mallinger, et al. Ramsey County.**

A contract for deed may be refinanced by a contract for deed at a higher interest rate without being usurious under Minnesota Statutes Section 47.20(4a)(4) (1982) (amended 1983).

Affirmed. Wozniak, J.

**C0-83-1373 Deutz & Crow Company, Inc. v. Ted Anderson d/b/a Anderson Construction Company, Appellant. Lyon County.**

Summary judgment is appropriate to construe ambiguous language in a contract where the extrinsic evidence of the parties' intent is undisputed and conclusive.

The appointment of arbitrators is proper where the facts to be determined are complex and of an accounting nature.

The trial court erred in awarding gross amounts of side sales as damages.

The facts do not justify converting this contract action to one of fraud.

Computer-run costs are properly awarded where appellant had that information but only furnished respondent with primary source documents in response to valid discovery demand for production.

Statutory pre-judgment interest is recoverable where the amount recoverable is readily ascertainable.

The trial court erred in finding that appellant fraudulently entered into the stipulation of settlement.

Attorney's fees awarded because of appellant's bad faith and deception in complying with discovery must be proved to be related to those actions.

The severe sanction of striking appellant's answer and counterclaim was justified because of appellant's many acts of bad faith which needlessly prolonged this action.

The appointment of receiver for appellant's business is moot.

Affirmed in part, reversed in part, and remanded for trial on remaining issues.

Sedgwick, J.

**C1-84-274 Patricia Meyer, Appellant, v. Illinois Farmers Insurance Group and Harvey Meyer. Nicollet County.**

Appellant, injured in a one-car collision while a passenger in the family car, is entitled to collect judicially imposed underinsurance benefits from respondent-insurer even though she has already collected liability benefits from respondent-insurer under the same policy.

Reversed. Sedgwick, J.

**C3-84-437 State of Minnesota, ex rel. Arthur Kost, Petitioner, Appellant, v. Robert Erickson, et al. Washington County.**

The Minnesota Corrections Board may take into account the severity of injuries to a victim when it sets the convict's target release date, even though the fact of the injury was already taken into account in determining the severity level of the offense.

The board provided insufficient findings to sustain a 36-month aggravation of appellant's matrix term.

Appellant has not been denied his Fourteenth Amendment right to Equal Protection by virtue of the fact that earned good time is applied differently for inmates serving a determinate sentence than those serving an indeterminate sentence.

Affirmed as modified. Sedgwick, J.

**C0-83-1759 State of Minnesota v. L. D. Todd Taylor, Appellant. Hennepin County.**

The evidence was sufficient as a matter of law to sustain appellant's convictions for two counts of criminal sexual conduct in the first degree.

There was no error in the trial court's evidentiary ruling.

Affirmed. Sedgwick, J.

**C4-84-575 David Donald Antl, Petitioner, v. State of Minnesota, Department of Public Safety, Appellant. Steele County.**

The trial judge erred in refusing to consider the observations of all witnesses, and in applying an erroneous standard of review to the agency's decision.

Reversed and remanded. Sedgwick, J.

# SUPREME COURT

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**C0-84-461 J.C. Penney Co., Inc., Appellant, v. Commissioner of Economic Security. Department of Economic Security.**

Portion of employee's compensation that the employer distributes to a savings and profit-sharing retirement plan for the benefit of and at the request of the employee is not "wages" for purposes of Minnesota Employment Services Law.

Reversed. Lansing, J.

**C9-84-488 Thomas Robillard, Appellant, v. Local 10 Sheet Metal Workers' International Association, a Labor Body Organized and Conducting Business in the State of Minnesota. St. Louis County.**

A state court action by a union member against his union requesting damages for lost employment opportunities because of the union's refusal to reinstate him is preempted by the National Labor Relations Act.

Vacated. Lansing, J.

**C4-84-799 Edwin L. Bounds, Petitioner, Appellant, v. Commissioner of Public Safety. Todd County.**

In the absence of fresh pursuit, a peace officer outside his jurisdiction has the authority of a private citizen, but may not administer post D.W.I. arrest procedures under Minnesota Statutes Section 169.123 (1982).

Reversed. Huspeni, J.

**C5-83-2065 Thomas A. Eisenschenk v. Millers' Mutual Insurance Association of Illinois, Appellant. Stearns County.**

Under the applicable definition of "underinsured motor vehicle" in the insurance policy, plaintiff is not entitled to underinsured motorist coverage.

The policy clause excluding underinsured motor vehicle coverage on the insured's own vehicle is valid.

Reversed. Huspeni, J.

**C1-84-50 Richard M. Sorensen, Appellant, v. Coast-to-Coast Stores (Central Organization), Inc., et al. Norman County.**

Even though plaintiff did not realize certain causes of action existed, the scope of an agreement releasing all claims against defendant included those causes of action.

Plaintiff's claim that he did not intend to execute a release agreement, absent allegation of fraud or other wrongful conduct inducing the release, does not create a question of fact preventing summary judgment.

Plaintiff failed to raise a question of fact on the issue of consideration when the release agreement extinguishes his existing obligation under a franchise agreement.

Affirmed. Leslie, J.

**C3-84-258 In Re: the Marriage of: Nancy Ann Sumner, Petitioner, v. John Paul Sumner, Appellant. Hennepin County.**

An order to amend a dissolution judgment is not an appealable order. Appeal should be made from the amended judgment.

The trial court erred in modifying custody without making specific findings as required by Minn. Stat. § 518.18(d) (1982).

Respondent may not raise additional issues on appeal without filing a notice of review pursuant to Minn. R. Civ. App. P. 106.

Reversed and remanded for findings. Nierengarten, J.

**C2-84-106 Harold E. Kolander, Appellant, v. Middle Des Moines Watershed District, Jackson County, Paul Daberkow, Jerry Daberkow and Clyde Daberkow. Jackson County.**

A landowner within a judicial ditch system who claims damages for an overburdened ditch must pursue such claim under Minn. Stat. Ch. 106.

Affirmed. Nierengarten, J.

**C0-84-69 Robert J. Venes and Jane Venes v. Professional Service Bureau, Inc., Appellant. Olmsted County.**

Where a debt collector threatened a debtor, was orally abusive, and attempted to collect interest not owed to the underlying creditor, there was sufficient evidence of extreme and outrageous conduct to justify an award of damages for emotional distress.

Attorney fees for a prior action establishing a violation of the Fair Debt Collection Practices Act may be an element of actual damages in a later suit under the act.

There was adequate evidence to support an award for out-of-pocket expenses.

The plaintiffs' attorney's closing argument was not improper.

Affirmed. Randall, J.

**C5-84-357 Kenneth Johnsrud v. Tri-State Sales, Inc., Borchert Contractors, Inc., Appellant, v. Zimmer Bros. Trencher Mfg., Division of Zimmer Bros. Farm Drainage Ltd., et al. Waseca County.**

When a party has not moved for judgment notwithstanding the verdict or for a new trial, the only issue which may be reviewed on appeal is the sufficiency of the evidence to support the verdict under any applicable rule of law.

The evidence is sufficient to support the jury's finding of liability on the part of defendant Borchert Contractors, Inc.

Affirmed. Randall, J.

**C4-84-477 Edward J. Bifulk and E. J. Bifulk, D.D.S., P.A., Appellants, v. Donald A. Evans and Clark A. Armstead. Ramsey County.**

The judgment obtained by a maker for contribution from co-makers for a part of prior note payments is bar to a present suit for the same claim but dealing with other note payments before the action that produced the judgment.

A professional corporation is in privity with its sole stockholder in the circumstances of this case.

Affirmed. Crippen, J.

**C7-84-1056 State of Minnesota v. Christopher Paul Curtiss, Appellant. Scott County.**

In exercising sentencing discretion under *State v. Kindem*, the trial court must consider circumstances supporting a downward durational departure from the presumptive sentence.

Remanded. Crippen, J.

**C7-84-263 Sandra Kaye Lee v. Wayne Ystebo, Appellant. Otter Tail County.**

Evidence sustains the trial court view that appellant was able to pay \$100 per month child support.

Affirmed. Crippen, J.

## **Memorandum Decision Filed Tuesday, August 14, 1984**

**6-84-1436 Minnesota Star and Tribune Company, La Crosse Tribune Company, and Northwest Publication, Inc., Petitioners, v. Honorable Robert E. Lee, Judge of County Court for Houston County. Houston County.**

An order preventing publication of lawfully obtained information about a juvenile proceeding is an unconstitutional prior restraint of speech.

The order is vacated and a writ of prohibition granted.

Popovich, C.J.

## **Decisions of the Supreme Court Filed Friday, August 24, 1984**

### **Compiled by Wayne O. Tschimperle, Clerk**

**C4-83-498 State of Minnesota v. Angelita Swanson, Appellant, Pine County.**

Court in trial of defendant for arson did not err in admitting out-of-court statements by separately tried, nontestifying codefendant that were made in the course and in furtherance of a conspiracy to commit arson and insurance fraud.

Defendant failed to establish that she was entitled to a new trial on the ground of newly discovered evidence in the form of testimony by her subsequently convicted codefendant that he alone committed the crime without any knowledge by defendant.

Affirmed. Peterson, J.

**C3-83-718 David Smith, a Minor, etc., et al., v. St. Paul Fire & Marine Insurance Company, Appellant. Ramsey County.**

Insured's professional liability insurance policy does not cover damages caused by sexual contact where the contact involved neither the providing nor withholding of professional services.

Reversed. Peterson, J.

Dissenting. Wahl, J., Yetka, J., & Simonett, J.

**C5-82-1634 State of Minnesota, v. Edwin R. Perkins, Appellant, Hennepin County.**

Trial court did not prejudicially err in evidentiary rulings or in instructions, but erred in imposing sentence greater than was permitted by statute.

Affirmed as modified. Peterson, J.

## SUPREME COURT

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**CX-83-215 State of Minnesota, v. Timothy J. Sneva, Appellant. Ramsey County.**

In trial of defendant for criminal negligence resulting in death, Minn. Stat. § 609.21 (1982), trial court did not abuse its discretion in overruling foundational objections to evidence as to defendant's blood alcohol concentration and as to expert testimony concerning the effects of alcohol on a driver.

Affirmed. Todd, J.

**C7-83-558 State of Minnesota, v. Timothy M. Eling, Appellant. Ramsey County.**

Probable cause supported defendant's warrantless arrest, and evidence obtained as a result of that arrest was properly admitted into evidence.

Probable cause supported the warrant for the search of defendant's residence, rendering evidence obtained as a result of that search admissible.

The trial court properly admitted prior-crime evidence as rebuttal where defendant raised the issue of identity.

Defendant was not denied a fair trial where the trial court took reasonable steps to minimize the risk of his being seen by jurors in the hallway while he was being taken to and from the courtroom in handcuffs.

Defendant was not denied the effective assistance of counsel.

Affirmed. Wahl, J.

**C6-83-700 Juan Armes Martinez, Appellant, v. State of Minnesota. Hennepin County.**

Evidence that defendant committed or participated in committing the offense of assault in the first degree was sufficient.

Affirmed. Kelley, J.

**C9-83-917 In Re: the Marriage of: Barbara B. Broms, Petitioner, v. Richard A. Broms, Appellant. Hennepin County.**

Trial court did not abuse its discretion in awarding maintenance of \$1,000 per month to provide for party's reasonable needs while obtaining employment skills and entering the labor market.

Maintenance award for a period longer than five years was an abuse of discretion where party awarded maintenance was a 32-year-old college graduate in generally good health who needed two years of graduate study to pursue a career in her chosen field and where nothing in the condition and circumstances of the party's children made it appropriate to delay completion of her education and entry into the workforce.

Affirmed in part, reversed in part, and remanded. Coyne, J.

**C8-83-987 Alan Hooper, et al., Appellants, v. The City of St. Paul and The City Council Thereof. Ramsey County.**

Continuous use of property as dual family residence for approximately five years prior to change in zoning classification from duplex to single family residence entitled property owner to lawful conforming use status under provision of St. Paul Zoning Code.

In the context of land use planning, lawful use refers only to those uses which comply with the existing zoning status.

Reversed. Coyne, J.

## TAX COURT

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Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

### State of Minnesota Tax Court County of Cass, Regular Division

**LeRoy C. Gielen, Appellant, v. Commissioner of Revenue, Appellee, Docket No. 3852**

**Findings of Fact, Conclusions of Law, and Order for Judgment**

This is an appeal from an assessment of individual income tax against the appellant for the years 1979 through 1981. The

matter came on for hearing pursuant to the appellee's motion for summary judgment on July 26, 1984 in Grand Rapids, Minnesota. LeRoy C. Gielen appeared pro se. Neil F. Scott, Special Assistant Attorney General appeared for the Appellee.

#### **Syllabus**

The issue in this appeal is whether wages received by the appellant in payment for his personal labor is subject to income tax.

#### **Findings of Fact**

1. Appellant is a cash basis calendar year taxpayer who resided in Minnesota during the years 1979 through 1981.
2. The appellant was employed by Blandin Paper Company in Grand Rapids, Minnesota during 1979 through 1981 earning wages as follows:

|      |             |
|------|-------------|
| 1979 | \$21,562.90 |
| 1980 | \$27,979.40 |
| 1981 | \$29,479.21 |
3. The appellant failed to file state income tax returns for each of the years 1979 through 1981.
4. The Commissioner of Revenue demanded the appellant file tax returns and when the appellant failed to do so tax returns were prepared on his behalf under Minn. Stat. 290.47 on or about March 1, 1983.
5. On or about March 3, 1984 the appellant was notified of the assessment and appealed to Tax Court.
6. The assessment is based on the wages earned by the appellant at Blandin Paper Company for the years 1979 through 1981. Credit was allowed for income tax withheld by Blandin Paper Company and for eight dependents. Additionally, the Appellant was allowed the standard deduction.
7. The tax assessed by the Commissioner of Revenue is as follows:

| <u>Year</u> | <u>Tax</u> | <u>Penalty</u> | <u>Interest</u> | <u>Total</u> |
|-------------|------------|----------------|-----------------|--------------|
| 1979        | 321.94     | 80.49          | 140.15          | 542.58       |
| 1980        | 2465.70    | 616.44         | 827.53          | 3909.67      |
| 1981        | 1658.71    | 414.68         | 341.96          | 2414.46      |

8. At the hearing the appellant presented no facts to dispute the returns as prepared by the Commissioner of Revenue.

#### **Conclusions of Law**

1. The wages paid to the appellant by Blandin Paper Company for his labor is includable in Minnesota gross income under Minn. Stat. 290.01, subd. 20 and subject to income tax.
2. The tax returns prepared by the Commissioner of Revenue for the appellant for 1979 through 1981 are correct and proper and affirmed in all respects.
3. The assessment of tax, penalty and interest stated in Findings of Fact #7 is hereby affirmed together with additional interest at the statutory rate from February 25, 1983.

Let judgment be entered accordingly,

August 21, 1984

John Knapp  
Judge of Tax Court

## **ERRATA**

### **Department of Human Rights**

#### **Correction and Addendum to Proposed Emergency Rules Governing Certificates of Compliance and Public Contracts**

##### **Request for Public Comment**

The Department of Human Rights is re-opening the period for public comment on the proposed emergency rules governing certificates of compliance and public contracts since the original notice incorrectly stated that comments would be accepted

for 20 days rather than for 25 days following publication of the notice in the *State Register*. The proposed emergency rules were published in the *State Register* Vol. 9, No. 5, on July 30, 1984, at pages 228-250. All submissions must be in writing and addressed to:

Mr. James Robinson, Supervisor  
Compliance Unit  
Minnesota Department of Human Rights  
500 Bremer Tower  
7th and Minnesota Streets  
St. Paul, Minnesota 55101  
612/296-5683

All interested persons are afforded the opportunity to submit their comments on the proposed emergency rules for 25 days immediately following publication of this notice in the *State Register*.

August 27, 1984

Dr. Linda C. Johnson  
Commissioner of Human Rights

## Department of Labor and Industry Prevailing Wage Division

### Correction to Certified Prevailing Wage Rates for Electricians in Highway and Heavy and Commercial Construction and New Rates Established for Electricians in Highway and Heavy Construction

The Highway and Heavy prevailing wage rates published in the *State Register* in June of 1984 for electricians in Anoka, Blue Earth, Chisago, Dakota, Hennepin, Isanti, LeSueur, Nicollet, Ramsey, Scott, Sherburne, Washington, Watonwan and Wright counties were in error. Prevailing wage rates for electricians have been certified in Faribault, Martin and Waseca counties for Highway and Heavy construction.

The commercial prevailing wage rates published in the *State Register* in July of 1984 for electricians in Ramsey and Pine were in error.

Copies of the above-named prevailing wage certifications are now available at the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155.

Steve Keefe, Commissioner  
Department of Labor & Industry

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