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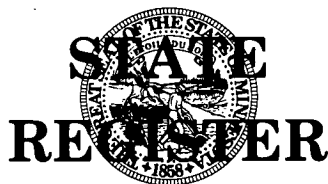
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VOLUME 9, NUMBER 35

February 25, 1985

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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
SCHEDULE FOR VOLUME 9			
36	Friday Feb 22	Monday Feb 25	Monday Mar 4
37	Monday Feb 25	Monday Mar 4	Monday Mar 11
38	Monday Mar 4	Monday Mar 11	Monday Mar 18
39	Monday Mar 11	Monday Mar 18	Monday Mar 25

*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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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 number. 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.

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PROPOSED RULES

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

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

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

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

Department of Economic Security

Proposed Rules Relating to Employment; Summer Youth Jobs

Notice of Intent to Adopt Rules without Public Hearing

Notice is hereby given that the Department proposes to amend the above entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of the rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

The amendment of the rules is authorized by Minnesota Statutes, 268.33, which requires the Department to establish rules governing eligibility for employment and placement under the Minnesota Youth Program. The public is encouraged to comment on the proposed rules. The public shall have 30 days to submit comment in support of, or in opposition to, the proposed rules. Each comment should identify the portion of the proposed rules addressed, the reason for comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion or the proposed rules addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Department will proceed according to the provisions of Minnesota Statutes, sections 14.14 to 14.20.

If a public hearing is not required, notice of the date of submission of the proposed rules to the Administration Division of the Office of the Attorney General for review will be mailed to any person requesting to receive the notice.

Comments, written requests for a public hearing, and requests for notice of the date of submission to the Attorney General should be submitted to:

Larry Cheetham
Department of Economic Security
390 North Robert Street
St. Paul, MN 55101
612/296-6734

Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from: Mr. Cheetham.

These rules will have no impact on small businesses in the State of Minnesota.

A copy of the proposed rules is attached to this notice.

Barbara Beerhalter
Commissioner

Rules as Proposed

3300.0100 DEFINITION OF TERMS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Contract. "Contract" means an agreement entered into between a ~~prime sponsor of a~~ political subdivision, school district, or a nonprofit organization and the commissioner for the operation of a youth employment program under the act.

Subp. 5. [Unchanged.]

Subp. 6. [See repealer.]

Subp. 7. Program employer Contractor. "~~Program employer Contractor~~" means an organization which employs a person under the program established by the act.

Subp. 8. [See repealer.]

3300.0300 ALLOCATION OF FUNDS.

Subpart 1. Allocations to counties. The commissioner shall allocate funds available under the act as follows:

A. [Unchanged.]

B. Fifty percent of the funds available under the act shall be allocated to counties according to each county's share of the estimated youth population of the state which is 14 through 21 years of age, adjusted for:

(1) historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July, and August for the most recent three-year period for which such data is available; and

(2) the county's proportion of families below the poverty level as evidenced by ~~1970~~ 1980 United States Census figures as adjusted by reference to more recent population surveys, provided that reference to more recent population surveys shall be made only if such data is available for all counties in the state; and

~~(3) estimates of postsecondary school enrollment in the county as evidenced by validated statistics from the Minnesota Higher Education Coordinating Board or, in their absence, by the most recent United States Census data.~~

C. The method of allocation to counties expressed mathematically shall be as follows:

$$\begin{aligned}
 \frac{A_{ei}}{Y P_s} &= \frac{0.5(Y P_{ei})}{Y P_s} + \frac{0.5F(Y P A_{ei}) (U_{ei}) (P_{ei})}{\sum_{i=1}^n (Y P A_{ei}) (U_{ei}) (P_{ei})} \\
 A_{ci} &= \frac{0.5F(Y P_{ci})}{Y P_s} + \frac{0.5 F(Y P_{ci}) (U_{ci}) (P_{ci}) (C_{ci})}{\sum_{i=1}^n [(Y P_{ci}) (U_{ci}) (P_{ci}) (C_{ci})]}
 \end{aligned}$$

where:

(1) A_{ci} = allocation to the i^{th} county;

(2) F = funds available under the act;

(3) $Y P_{ci}$ = youth population 14 through 21 years of age in the i^{th} county, determined by interpolation for the current year from projections of the state demographer;

(4) $Y P_s$ = ~~same as subitem (3) for the state~~ the sum of $Y P_{ci}$ s for all counties in the state:

(5) $Y P A_{ei}$ = youth population as in subitem (3), but adjusted for postsecondary school enrollment as referenced in item B, subitem (3);

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

(6) U_{ci} = most recent three year average of official labor force unemployment rates for the months of June, July, and August for the i^{th} county; and

(7) (6) P_{ci} = percent of all families with income below the poverty level in the i^{th} county as evidenced by the 1970 1980 United States Census or more recent population surveys as referenced in subpart 2, item B; ~~subitem (2); and~~

$$(7) C_{ci} = \left[1 - \frac{1.5 (\text{no. of students 20-21})}{\text{youth population 14-21}} \right] \text{ for the } i^{\text{th}} \text{ county.}$$

Subp. 2. Allocation to cities and Indian reservations. After the commissioner has made an allocation to each county, each county's allocation shall be divided as follows:

A. Each city within the county which has a total population of 2,500 or more shall receive that portion of the county's allocation which is proportionate to the population of the city as compared to the total population of the county as evidenced by the most recent United States Bureau of Census estimates. ~~Each Indian reservation within the county shall receive that portion of the county's allocation which is proportionate to the population of the Indian reservation as compared to the total population of the county as evidenced by 1970 United States Census figures.~~ Allocations to Indian reservations will be based on the same procedure as that of cities. Reservation population and counties of location will be based on the most recent United States Bureau of Indian Affairs and/or United States Bureau of Census Information.

B. [Unchanged.]

3300.0400 CONTRACTING PROCEDURES.

Each prime sponsor will be offered a contract for the amount of funds allocated to its area. Upon the offer of a contract, each prime sponsor may exercise the following options:

A. sign the contract for the entire amount of the allocation and directly administer the program;

B. sign the contract for the entire amount of the allocation and subcontract the operation of the program to political subdivisions or nonprofit organizations, or both, within the prime sponsor's jurisdiction;

C. designate all or a part of the allocation to be directly used by a state agency, political subdivision, or a nonprofit organization; or

D. decline the offer of the contract. In such a case, the commissioner shall offer to contract directly with the cities, Indian reservations, and counties in the prime sponsor's area. The commissioner may enter into contracts for operation of the program with organizations defined in part 3300.0100, subpart 4. Selection of contractors with experience in administering summer youth employment programs is determined by the commissioner in consultation with private industry councils and chief elected officials authorized to administer the Job Training Partnership Act under Public Law Number 97-300 in Minnesota. The department retains ultimate responsibility for administration and operation of the program.

3300.0500 OPERATION PROCEDURES.

Subpart 1. Regular program. Youths who are at least 14 years of age but less than 22 years of age at the time they are to begin employment under the program established by the act are eligible for program employment. Approximately 50 percent of the youths hired should be from families which meet the criteria definition for economically disadvantaged as established by the Employment and Training Administration of the United States Department of Labor at Code of Federal Regulations, title 20, sections 675.4 and 675.5 40 (1980) under Public Law Number 97-300, section 4. However, if there are insufficient eligible youths from economically disadvantaged families available for employment to meet this goal within an area under the jurisdiction of a prime sponsor contractor which has received an allocation under part 3300.0300, and the prime sponsor contractor certifies such insufficiency to the department and the department concurs, the criteria shall be waived with respect to the funds allocated to the area. Hereinafter, this portion of the program is referred to as the "regular program."

Subp. 2. Postsecondary program. Notwithstanding subpart 1, at least 33-1/3 percent of the funds allocated to the prime sponsor area served by the contractor are to be used to hire youths who are at least 18 years of age, or a high school graduate, but less than 22 years of age who are certified by the department as intending to enroll or are enrolled in a postsecondary educational institution. Approximately 50 percent of the youths hired should be from families which meet the criteria definition for economically disadvantaged as established by the Employment and Training Administration of the United States Department of Labor at Code of Federal Regulations, title 20, sections 675.4 and 675.5 40 (1980) under Public Law Number 97-300, section 4. However, if there are insufficient eligible youths from economically disadvantaged families available for employment to meet his goal within an area under the jurisdiction of a prime sponsor contractor which has received an allocation under part 3300.0300, and the prime sponsor contractor certifies such insufficiency to the department and the department concurs, the criteria shall be waived with respect to the funds allocated to the area. Hereinafter, this portion of the program is referred to as the "postsecondary program." A partial waiver from this part may be obtained in accordance with the procedures set forth in part 3300.0700.

Subp. 3. Eligible youth. To obtain eligible youths, ~~program employers~~ contractors must place a job ~~order~~ orders with the department and may employ only those youths referred by the department.

Subp. 4. [Unchanged.]

Subp. 5. Supervisors. A ~~program employer~~ contractor may designate one eligible youth as supervisor for every ten youths in its employ under the act. ~~Program employers~~ Contractors who employ at least five but less than ten youths may designate one youth as a supervisor. Youths designated as supervisors shall be paid the federal minimum wage plus 25 cents per hour for up to 40 hours per week for a period not exceeding 12 weeks.

Subp. 6. Employment of eligible youth. Upon signing a contract ~~or subcontract~~ program employers ~~contractors~~ may begin employing eligible youths referred by the department; however, no youth may be employed while attending school as a full-time student. No youth may be employed beyond September 30 of each calendar year.

3300.0700 REALLOCATION PROCEDURES.

Funds may be reallocated within a county or between a county and a city or between counties under the following circumstances:

A. and B. [Unchanged.]

In addition, the ~~prime sponsors~~ contractors may reallocate up to the equivalent of one full-time slot or position not to exceed ~~\$1,000~~ \$1,500 between any subdivision above for the purpose of simplified administration of the program.

~~Prime sponsors~~ Contractors may shift funds from the postsecondary portion of their program to the regular portion of their program provided that they certify in writing to the department that they are unable to obtain sufficient youth who meet the criteria ~~set forth~~ in part 3300.0500, subpart 2, and the department concurs.

During the period of the contract, the department may shift funds from one ~~prime sponsor~~ contractor to another ~~prime sponsor~~ with the mutual consent of both ~~prime sponsors~~ if the ~~prime sponsor releasing the funds certifies that such funds are surplus and unlikely to be used within his area by the end of the contract period and the prime sponsor receiving the funds certifies that the funds are likely to be used before the end of the contract period~~ contractors.

REPEALER. Minnesota Rules, parts 3300.0100, subparts 6 and 8; and 3300.0600, are repealed.

Department of Human Services

Proposed Rules Relating to Hospital Medical Assistance Reimbursement

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Minnesota Veterans Home, Chapel—Auditorium, Building No. 15, 5105 Minnehaha Avenue South, Minneapolis, Minnesota on March 28, 1985, commencing at 9 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon Lunde, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone number 612/341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during this three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in

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PROPOSED RULES

Minnesota Statutes, section 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.01-14.56 and by Minnesota Rules, parts 1400.0200-1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9500.1090 to 9500.1160 establish a prospective reimbursement system for all hospitals that participate in and are reimbursed directly by Medical Assistance.

The rules include the definitions of terms used in the rules; the classification of inpatient hospital services according to the diagnostic related groups under Medicare with certain adjustments; the determination and publication of relative values of diagnostic categories; the determination and publication of hospital cost index; the determination of the categorical rate per admission; reimbursement procedures; a disproportionate population adjustment; appeals procedures, and rates for admissions for different hospital fiscal years.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256.969, subdivision 2 and 6, and Laws of Minnesota 1983, Chapter 312, article V, Section 39. The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for either of the first two years following passage of the rule.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Richard Tester, Professional Services Section, Department of Human Services, 4th Floor Space Center, 444 Lafayette Road, St. Paul, Minnesota 55101, telephone 612/296-9939. Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Richard Tester.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Note: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the rule has been adopted and filed by the agency with the Secretary of State. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge (in the case of the Administrative Law Judge's report), or to the agency (in the case of the agency's submission to the Secretary of State).

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

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

B. Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

February 7, 1985

Albert Hanzal
for
Leonard W. Levine, Commissioner
Department of Human Services

Rules as Proposed (all new material)

9500.1090 PURPOSE AND SCOPE.

Parts 9500.1090 to 9500.1155 establish a prospective reimbursement system for all hospitals that participate in and are reimbursed directly by medical assistance.

All provisions of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 5, shall apply to general assistance medical care substituting the terms and data for general assistance medical care for the terms and data referenced for medical assistance.

9500.1095 STATUTORY AUTHORITY.

Parts 9500.1090 to 9500.1155 are authorized by Minnesota Statutes, section 256.969, subdivisions 2 and 6, and Laws of Minnesota 1983, chapter 312, article V, section 39. Parts 9500.1090 to 9500.1155 must be read in conjunction with Titles XVIII and XIX of the Social Security Act, Code of Federal Regulations, title 42, and Minnesota Statutes, chapters 256, 256B, and 256D.

9500.1100 DEFINITIONS.

Subpart 1. Scope. As used in parts 9500.1090 to 9500.1155, the terms in subparts 2 to 48 have the meanings given them.

Subp. 2. Adjusted base year cost per admission. "Adjusted base year cost per admission" means allowable base year cost per admission cumulatively multiplied by the hospital cost index for years prior to the budget year.

Subp. 3. Admission. "Admission" means the act that allows the recipient to officially enter a hospital to receive inpatient hospital services under the supervision of a physician who is a member of the medical staff.

Subp. 4. Admission certification. "Admission certification" means the determination pursuant to parts 9500.0750 to 9500.1080, 9505.5000 to 9505.5020 [Emergency] and 9505.1000 to 9505.1040 that inpatient hospitalization is medically necessary.

Subp. 5. Allowable base year cost per admission. "Allowable base year cost per admission" means a hospital's base year reimbursable inpatient hospital cost per admission which is adjusted for case mix and which excludes pass-through costs and outliers.

Subp. 6. Ancillary service. "Ancillary service" means inpatient hospital services that include laboratory, radiology, drugs, delivery room, operating room, therapy services, and other special items and services customarily charged for in addition to a routine service charge.

Subp. 7. Appeals board. "Appeals board" means the board which advises the commissioner on adjustments to a categorical rate per admission, rate per admission, or a rate per day.

Subp. 8. Arithmetic mean cost per admission. "Arithmetic mean cost per admission" means the number obtained by dividing the sum of a set of reimbursable inpatient hospital costs per admission by the number of admissions in the set.

Subp. 9. Base year. "Base year" means the hospital's fiscal year ending during calendar year 1981.

Subp. 10. Budget year. "Budget year" means the hospital's fiscal year for which a prospective reimbursement system is being determined.

Subp. 11. Case mix. "Case mix" means the distribution of admissions in the diagnostic categories.

Subp. 12. Categorical rate per admission. "Categorical rate per admission" means the adjusted base year cost per admission multiplied by the relative value of the appropriate diagnostic category plus the budget year pass-through cost per admission.

Subp. 13. Claims. "Claims" means the information contained on the inpatient hospital invoices submitted to the department by a hospital to request reimbursement for inpatient hospital services provided to a recipient.

Subp. 14. Commissioner. "Commissioner" means the commissioner of the Department of Human Services or an authorized representative of the commissioner.

Subp. 15. Cost outlier. "Cost outlier" means an admission whose reimbursable inpatient hospital cost exceeds the geometric mean cost per admission for diagnostic categories O and W under subpart 20, by three standard deviations.

Subp. 16. Cost-to-charge ratio. "Cost-to-charge ratio" means a ratio of a hospital's reimbursable inpatient hospital costs to its charges for inpatient hospital services.

Subp. 17. Current year. "Current year" means the hospital's fiscal year which occurs immediately before the budget year.

Subp. 18. Day outlier. "Day outlier" means an admission whose length of stay exceeds the geometric mean length of stay for a diagnostic category by three standard deviations.

Subp. 19. Department. "Department" means the Minnesota Department of Human Services.

Subp. 20. Diagnostic categories. "Diagnostic categories" means the classification of inpatient hospital services according to the diagnostic related groups (DRG's) under medicare with adjustments as follows:

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PROPOSED RULES

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. Diseases and Disorders of the Nervous System	(1-35)
B. Diseases and Disorders of the Eye	(36-48)
C. Diseases and Disorders of the Ear, Nose, and Throat	(49-74)
D. Diseases and Disorders of the Respiratory System	(75-97, 99-102)
E. Diseases and Disorders of the Circulatory System	(103-145)
F. Diseases and Disorders of the Digestive System	(146-183, 185-190)
G. Diseases and Disorders of the Hepatobiliary System and Pancreas	(191-208)
H. Diseases and Disorders of the Musculoskeletal System and Connective Tissues	(209-256)
I. Diseases and Disorders of the Skin, Subcutaneous Tissue and Breast	(257-284)
J. Endocrine, Nutritional, and Metabolic Diseases and Disorders	(285-301)
K. Diseases and Disorders of the Kidney and Urinary Tract	(302-333)
L. Diseases and Disorders of the Male Reproductive System	(334-352)
M. Diseases and Disorders of the Female Reproductive System	(353-369)
N. Pregnancy, Childbirth, and the Puerperium	(370, 374-384)
O. Newborns and other Neonates with Conditions Originating in the Perinatal Period	(385-390)
P. Diseases and Disorders of the Blood and Blood-Forming Organs and Immunity Disorders	(392-399)
Q. Myeloproliferative Diseases and Disorders, Poorly Differentiated Malignancy and Other Neoplasms NEC	(400-414)
R. Infectious and Parasitic Diseases (Systemic or Unspecified Sites)	(415-423)
S. Mental Diseases and Disorders	(424-425, 427-429, 432)
T. Substance Use and Substance Induced Organic Mental Disorders (Ages 0-20)	(433-438)
U. Substance Use and Substance Induced Organic Mental Disorders (Ages over 21)	(433-438)
V. Injury, Poisoning, and Toxic Effects of Drugs	(439-455)

W. Burns	(456-460)
X. Factors Influencing Health Status and Other Contacts with Health Services	(461-467)
Y. Bronchitis and Asthma (Ages 0-1)	(98)
Z. Bronchitis and Asthma (Ages 2-17)	(98)
AA. Esophagitis, Gastroenteritis, Miscellaneous Digestive Disorders (Ages 0-1)	(184)
BB. Esophagitis, Gastroenteritis, Miscellaneous Digestive Disorders (Ages 2-17)	(184)
CC. Cesarean section without cormorbidities and complications	(371)
DD. Vaginal delivery with complicating diagnosis	(372)
EE. Vaginal delivery without complicating diagnosis and Normal newborns	(373), (391)
FF. Depressive neurosis	(426)
GG. Psychosis	(430)
HH. Childhood mental disorders	(431)
II. Unrelated Operating room procedure	(468)
JJ. Cases which could not be assigned to other diagnostic categories	(469-470)

Subp. 21. Discharge. "Discharge" means a release of a recipient from a hospital.

Subp. 22. General assistance medical care or GAMC. "General assistance medical care" or "GAMC" means the program established by Minnesota Statutes, section 256D.03.

Subp. 23. Geometric mean cost per admission. "Geometric mean cost per admission" means the nth root of the product of the reimbursable inpatient hospital costs per admission for n admissions.

Subp. 24. Geometric mean length of stay. "Geometric mean length of stay" means the nth root of the product of the number of days spent in a hospital for each admission for n admissions.

Subp. 25. Hospital. "Hospital" means an institution that, except for state-operated facilities, is approved to participate as a hospital under medicare.

Subp. 26. Hospital cost index or HCI. "Hospital cost index" or "HCI" means a single percentage annually multiplied by the adjusted base year cost per admission or the adjusted base year costs to adjust for inflation.

Subp. 27. Inpatient hospital service. "Inpatient hospital service" means a service provided under the supervision of a physician and furnished in a hospital for the care and treatment of a recipient. The inpatient hospital service may be furnished by a physician, or a vendor of an ancillary service which is prescribed by a physician and which is eligible for medical assistance reimbursement.

Subp. 28. Local agency. "Local agency" means a county or multicounty agency authorized under Minnesota Statutes as the agency responsible for determining eligibility for medical assistance.

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Subp. 29. Medical assistance or MA. "Medical assistance" or "MA" means the program established under Title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 30. Medically necessary. "Medically necessary" means an inpatient hospital service that is consistent with the recipient's diagnosis or condition, and under the criteria in parts 9505.0530 [Emergency] and 9505.0540 [Emergency] cannot be provided on an outpatient basis.

Subp. 31. Medicare. "Medicare" means the federal health insurance program established under Title XVIII of the Social Security Act.

Subp. 32. Medicare crossover claims. "Medicare crossover claims" means the information contained on the inpatient hospital invoices submitted to the department by a hospital to request reimbursement for inpatient hospital services provided to a recipient who is also eligible for medicare.

Subp. 33. Operating costs. "Operating costs" means the reimbursable inpatient hospital costs of a hospital excluding pass-through costs.

Subp. 34. Outlier. "Outlier" means a day outlier or a cost outlier.

Subp. 35. Out-of-area hospital. "Out-of-area hospital" means any hospital outside of Minnesota.

Subp. 36. Pass-through costs. "Pass-through costs" means reimbursable inpatient hospital costs not subject to the HCI.

Subp. 37. Prior authorization. "Prior authorization" means prior approval for inpatient hospital services by the department established under parts 9505.5000 to 9505.5020 [Emergency].

Subp. 38. Prior year. "Prior year" means the hospital's fiscal year immediately before the current year.

Subp. 39. Prospective reimbursement system. "Prospective reimbursement system" means a method of reimbursing hospitals for inpatient hospital services on a categorical rate per admission, rate per admission, or rate per day, or some combination thereof, determined by the department in advance of the delivery of inpatient hospital services.

Subp. 40. Readmission. "Readmission" means an admission which occurs within seven days of a discharge, whose diagnostic category or a related diagnostic category is the same as that identified for that discharge.

Subp. 41. Recipient. "Recipient" means a person who has applied to a local agency and had been determined eligible for medical assistance.

Subp. 42. Reimbursable inpatient hospital costs. "Reimbursable inpatient hospital costs" means those costs allowable under Title XVIII of the Social Security Act for inpatient hospital services.

Subp. 43. Relative value. "Relative value" means the reimbursable inpatient hospital cost per admission for all admissions in each diagnostic category in relation to the reimbursable inpatient hospital cost per admission of all admissions in all other diagnostic categories on a statewide basis.

Subp. 44. Routine service. "Routine service" means those inpatient hospital services included by a hospital in a daily room charge. Routine services are composed of two broad components: (1) general routine services, and (2) special care units including nursery care units, coronary care units, and intensive care units.

Subp. 45. Second surgical opinion. "Second surgical opinion" means the confirming or denying of the need for the proposed surgery by a recommended second physician as specified in part 9505.5030 [Emergency] and Minnesota Statutes, section 256B.503.

Subp. 46. Total hospital admissions. "Total hospital admissions" means the total number of acts that allow persons to officially enter a hospital during the base year to receive a service provided under the supervision of a physician and furnished in a hospital by a physician, or a vendor of an ancillary service prescribed by a physician.

Subp. 47. Total reimbursable costs. "Total reimbursable costs" means the costs identified in a hospital's base year medicare/medical assistance cost report, Health Care Financing Administration (HCFA) Form 2552, 1981 revision, Worksheet A, column 7, line 84. Health Care Financing Administration Form 2552, 1981 revision is incorporated by reference. The form is published by Medicare, Part A Office, 3535 Blue Cross Road, P.O. Box 43560, Saint Paul, Minnesota 55164. The form is available through the minitex interlibrary loan system.

Subp. 48. Transfer. "Transfer" means the movement of a recipient after admission from one hospital to another.

9500.1105 REIMBURSEMENT OF INPATIENT HOSPITAL SERVICES.

The department shall use a prospective reimbursement system to reimburse hospitals for inpatient hospital services provided to recipients.

9500.1110 DETERMINATION AND PUBLICATION OF RELATIVE VALUES OF DIAGNOSTIC CATEGORIES.

Subpart 1. Determination of relative values. To determine the relative values of the diagnostic categories the department shall:

- A. select all claims for all hospitals statewide for state fiscal years 1983 and 1984;
- B. assign each claim from item A to the specific admission which generated the claim except as provided in item C;
- C. exclude from item B the following claims:
 - (1) medicare crossover claims;
 - (2) claims submitted by out-of-area hospitals, and
 - (3) claims not reimbursed as of February 28, 1985;
- D. determine reimbursable inpatient hospital costs for each hospital's admissions for state fiscal years 1983 and 1984 using each hospital's base year data from the HCFA Form 2552 Worksheet, 1981 revision according to subitems (1) to (4):
 - (1) establish the cost of routine services determined by multiplying the routine services charge for each admission identified in item B by the appropriate routine service cost-to-charge ratio determined in the base year.
 - (2) establish the cost of ancillary services by multiplying the ancillary charges for each admission identified in item B by the appropriate cost-to-charge ratio as identified in Worksheet C determined in the base year.
 - (3) establish the cost of services rendered by interns and residents not in an approved teaching program for each admission in item B by multiplying the number of days for the appropriate routine services by the per diem cost identified in Worksheet D-2, Part I of the base year, and
 - (4) sum subitems (1) to (3) to determine the reimbursable inpatient hospital cost for each admission in item B;
- E. assign each admission identified in item B to the appropriate diagnostic related group under medicare using the Transfer Tape for ICD-9-CM Diagnosis Related Groups Assignment Software distributed and developed by DRG Support Group Limited, a subsidiary of Health Systems International, Incorporated;
- F. assign each admission to a diagnostic category;
- G. identify outliers for each diagnostic category;
- H. determine the statewide arithmetic mean cost per admission for all admissions by dividing the total reimbursable inpatient hospital cost for all admissions excluding outliers by the total number of admissions excluding outliers;
- I. determine the statewide arithmetic mean cost per admission for each diagnostic category by dividing the total reimbursable inpatient hospital costs in each diagnostic category excluding outliers by the total number of admissions in each diagnostic category excluding outliers; and
- J. determine the relative value for each diagnostic category by dividing item I by item H.

Subp. 2. Redetermination of relative values. The department shall redetermine the relative values of the diagnostic categories prior to the beginning of each state fiscal biennium. The redetermination of the relative values shall be based on claims from the two most recently completed state fiscal years reimbursed on or before March 1 of the second year of the biennium and the cost-to-charge ratio determined during the base year.

These redetermined relative values shall be the basis of reimbursement for the next biennium.

Subp. 3. Publication of relative values. The department shall publish in the *State Register* the relative values of each diagnostic category at least 30 days prior to the start of a biennium.

9500.1115 DETERMINATION OF ALLOWABLE BASE YEAR COST PER ADMISSION.

To determine the allowable base year cost per admission the department shall:

- A. determine reimbursable inpatient hospital costs for each hospital's base year admissions according to part 9500.1110, subpart 1, item D;
- B. subtract from the amount determined in item A the amounts in subitems (1) and (2):
 - (1) reimbursable inpatient hospital costs for outliers as determined in part 9500.1110, subpart 1, item G, and
 - (2) pass-through costs apportioned to medical assistance based on the ratio of reimbursable inpatient hospital costs as adjusted in subitem (1) to total reimbursable costs;

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C. divide the reimbursable inpatient hospital costs as adjusted in item B by the number of base year admissions in each hospital excluding outliers;

D. adjust item C for case mix as follows:

- (1) assign each base year admission a diagnostic category as specified in part 9500.1110, subpart 1, items E and F,
- (2) multiply each base year admission excluding outliers by the relative value of the diagnostic category assigned to that admission,
- (3) sum the products determined in subitem (2),
- (4) divide the sum from subitem (3) by the number of base year admissions excluding outliers, and
- (5) divide the cost per admission as determined in item C by subitem (4).

9500.1120 DETERMINATION AND PUBLICATION OF HOSPITAL COST INDEX (HCI).

Subpart 1. Adoption of Health Care Costs. The most recent Health Care Costs published by Data Resources Incorporated (DRI) is incorporated by reference. The health care costs report is available through the minitex interlibrary loan system. The report is published monthly.

Subp. 2. Determination of HCI. For each calendar quarter the department shall determine the HCI as follows:

A. For each calendar quarter obtain from Health Care Costs published by Data Resources, Inc., inflation estimates for the following operating costs:

- (1) salaries
- (2) employee benefits
- (3) medical fees
- (4) raw food
- (5) medical supplies
- (6) pharmaceuticals
- (7) utilities
- (8) repairs and maintenance
- (9) insurance (other than malpractice)
- (10) other operating costs

B. During the fourth quarter of each calendar year, obtain data for operating costs as found in the aggregate of hospitals in Minnesota which indicate the proportion of operating costs attributable to each of item A, subitems (1) to (10). These proportions will be used in the determination of the HCI for the next calendar year.

C. Multiply each proportion for item A, subitems (1) to (10) by each subitem's inflation estimate.

D. Sum the products determined in item C and round the sum to one decimal place.

Subp. 3. Publication of HCI. The department shall publish the HCI in the *State Register* 30 days prior to the start of each calendar quarter. A hospital whose budget year starts during a given calendar quarter is subject to the HCI published 30 days prior to the start of that quarter.

9500.1125 DETERMINATION OF CATEGORICAL RATE PER ADMISSION.

Subpart 1. Pass-through cost reports. For each hospital's budget year, each hospital shall submit to the department a written report of pass-through costs. Pass-through cost reports must include actual data for the prior year and budgeted data for the current and budget years. Pass-through cost reports are due 60 days prior to the start of each hospital's budget year and must include the following information:

Items	Prior Year (Actual)	Current Year (Budget)	Budget Year (Budget)
A. Depreciation	_____	_____	_____
B. Rents and leases	_____	_____	_____
C. Property taxes	_____	_____	_____
D. Property Insurance	_____	_____	_____
E. Interest	_____	_____	_____
F. Malpractice insurance	_____	_____	_____
G. TOTAL PASS-THROUGH COSTS (ITEMS A TO F)	_____	_____	_____

Pass-through costs are limited to items A to F as determined by medicare. Pass-through costs do not include costs derived from capital projects requiring a certificate of need for which the required certificate of need has not been granted.

Subp. 2. Determination of budget year pass-through cost per admission. The department shall determine the budget year pass-through cost per admission from the submitted pass-through cost report as specified in subpart 1 as follows:

Items	Prior Year (Actual)	Current Year (Budget)	Budget Year (Budget)
A. Ratio of reimbursable in-patient hospital costs to total reimbursable costs pursuant to part 9500.1115, item B, sub-item (2)	_____	_____	_____
B. Pass-through costs as specified in subpart 1, item G multiplied by item A	_____	_____	_____
C. Number of base year admissions excluding outliers pursuant to part 9500.1115, item D, sub-item (4)	_____	_____	_____
D. Pass-through cost per admission (item B divided by item C)	_____	_____	_____

Subp. 3. Categorical rate per admission. The department shall determine the categorical rate per admission as follows:

$$\text{Categorical Rate Per Admission} = \frac{\text{[(Adjusted base year cost per admission) multiplied by (budget year HCI) and multiplied by (the relative value of the appropriate diagnostic category), plus (budget year pass-through cost per admission)]}{\text{Budget Year (Budget)}}$$

Subp. 4. Pass-through cost adjustment. After the end of each budget year, the commissioner shall redetermine the categorical rate per admission. The commissioner shall substitute actual pass-through costs as determined by medicare for budgeted pass-through costs in subpart 2, item B for that year. If the adjustment indicates an overpayment to the hospital, the hospital shall pay to the commissioner the entire overpayment within 60 days of receiving the written notification from the commissioner.

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PROPOSED RULES

Subp. 5. Interest. Interest charges must be assessed on underpayment or overpayment balances for pass-through cost adjustments outstanding after the deadlines. The annual interest rate charged must be the rate charged by the commissioner of revenue for late payment of taxes in effect on the 61st day after the written notification.

Subp. 6. Effective date. The categorical rate per admission shall be effected for all admissions that occur on or after the effective date of parts 9500.1090 to 9500.1155.

9500.1130 REIMBURSEMENT PROCEDURES.

Subpart 1. Submittal of claims. Claims must be submitted after the recipient is discharged.

Subp. 2. Required claims. Hospitals must submit complete medical assistance claims to the department on forms or computer tapes approved by the department.

Subp. 3. Reimbursement in response to submitted claims. The department will reimburse a hospital for inpatient hospital services only after processing that hospital's properly submitted claim.

Subp. 4. Adjustment to reimbursement. Reimbursements made by the department shall be adjusted for the reasons specified in subpart 5 and for inappropriate utilization as determined by the commissioner under parts 9505.1910 to 9505.2020 [Emergency]. Adjustment to a hospital's account shall be by debit.

Subp. 5. Rejection of claims. Claims will not be reimbursed for a hospital's failure to:

- A. obtain prior authorization;
- B. provide documentation of a second surgical opinion;
- C. receive admission certification; and
- D. assign a claim to one of diagnostic categories A to II in part 9500.1100, subpart 20.

Subp. 6. Medicare crossover claims. Medicare crossover claims shall be reimbursed as follows:

Medicare Crossover Reimbursement	=	[(medicare deductibles), plus (medicare coinsurance), plus (amounts for services covered by medical assistance but not by medicare)]
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Subp. 7. Reimbursement for transfers. The department shall reimburse hospitals who discharge transfers and who admit transfers. Each hospital shall be reimbursed as follows:

Transfer Reimbursement	=	[(adjusted base year cost per admission) multiplied by (the relative value of the appropriate diagnostic category), divided by (the geometric mean length of stay of the diagnostic category) and multiplied by (the number of days of inpatient hospital services)]
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In no case may a hospital receive a transfer reimbursement for a transfer that exceeds the adjusted base year cost per admission multiplied by the relative value of the appropriate diagnostic category unless the transfer is an outlier.

Subp. 8. Reimbursement for admissions. An admission and readmission to the same hospital shall be reimbursed with one categorical rate per admission and reimbursed for an outlier if appropriate. A readmission to a different hospital shall be reimbursed as a transfer as specified in subpart 7.

Subp. 9. Reimbursement for outliers. The department shall reimburse a hospital for outliers as follows:

- A. To determine reimbursements for day outliers the department shall:
 - (1) multiply a hospital's adjusted base year cost per admission by the relative value of the appropriate diagnostic category;
 - (2) divide the product in subitem (1) by the geometric mean length of stay for the diagnostic category;
 - (3) multiply the per day amount as determined in subitem (2) by 60 percent to establish the per day rate for the diagnostic category;
 - (4) subtract the number of inpatient days at three standard deviations for the diagnostic category as identified in part 9500.1110, subpart 1, item G from the actual number of inpatient days to establish the number of outlier days; and

(5) multiply the product determined in subitem (3) by the number of days determined in subitem (4).

B. To determine reimbursements for cost outliers the department shall:

(1) determine a statewide cost-to-charge ratio according to hospitals' statewide base year medicare/medical assistance cost reports;

(2) multiply the hospital's billed charges by the statewide cost-to-charge ratio;

(3) subtract the cost at three standard deviations for the diagnostic category as identified in part 9500.1110, subpart 1, item G from the adjusted cost from subitem (2); and

(4) multiply the amount determined in subitem (3) by 60 percent.

C. If an admission is a day and a cost outlier, the hospital shall receive reimbursement as a day outlier.

Subp. 10. Reimbursement to out-of-area hospital. The department shall reimburse out-of-area hospitals based on the lesser of billed charges or the out-of-area hospital categorical rate per admission. The department shall determine the out-of-area categorical rate per admission as follows in items A to E:

A. multiply the adjusted allowable base year cost per admission in effect on the first day of a calendar year for each hospital statewide by the number of admissions in each hospital's base year, excluding outliers;

B. sum the products in item A;

C. divide the sum from item B by the sum of all admissions for all hospitals statewide, excluding outliers, to determine the statewide adjusted allowable base year cost per admission;

D. multiply the pass-through cost per admission in effect on the first day of a calendar year for each hospital statewide by the number of admissions in each hospital's base year, excluding outliers;

E. sum the products in item D;

F. divide the sum from item E by the sum of all admissions for all hospitals statewide, excluding outliers, to determine a statewide pass-through cost per admission;

G. the department shall determine the categorical rate per admission for an out-of-area hospital as follows:

Out-of-area Hospital Categorical Rate Per Admission	=	[(statewide adjusted base year cost per admission) multiplied by (the relative value of the appropriate diagnostic category), plus (statewide budget year pass-through cost per admission)]
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Subp. 11. Reimbursement for hospitals statewide which do not have admissions in the base year. The department shall reimburse statewide hospitals which do not have admissions in the base year by using the statewide adjusted base year cost per admission as specified in subpart 10, item C, multiplied by the relative value of the appropriate diagnostic category plus the budget year pass-through cost per admission according to part 9500.1125, subpart 2. The pass-through cost per admission will be adjusted under part 9500.1125, subpart 4, and will be subject to part 9500.1125, subpart 5.

Categorical Rate per Admission For Hospitals Statewide Which Do Not Have Admissions In The Base Year	=	[(statewide adjusted base year cost per admission) multiplied by (the relative value of the appropriate diagnostic category) plus (budget year pass-through cost per admission)]
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Subp. 12. Payor of last resort. A hospital may not submit a claim to the department until a final determination of the recipient's eligibility for potential third party payment has been made by a hospital. Any and all available third party benefits must be exhausted prior to billing medical assistance and the amounts collected must be shown on the claim.

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PROPOSED RULES

9500.1135 DISPROPORTIONATE POPULATION ADJUSTMENT.

The department shall increase the adjusted base year cost per admission for hospitals whose medical assistance and general assistance medical care admissions exceed 15 percent of total hospital admissions according to the following schedule:

Percentage of Total Hospital Admissions Which are Medical Assistance and General Assistance Medical Care	Increase in Adjusted Base Year Cost Per Admission
15-20 percent	1/4 percent for each percentage point above 15 percent
21-25 percent	1/2 percent for each percentage point above 20 percent
26-30 percent	3/4 percent for each percentage point above 25 percent
31 percent and above	1 percent for each percentage point above 30 percent

The department shall multiply the disproportionate population adjustment by the adjusted base year cost per admission after the application of any statutory limits to the growth in hospital rates or unit costs. In no case shall the disproportionate population adjustment exceed twice the HCI as determined in part 9500.1120.

9500.1140 APPEALS.

Subpart 1. Appointment of appeals board. The appeals board shall be appointed by the commissioner.

Subp. 2. Composition of appeals board. The appeals board shall consist of two public representatives, two representatives of the hospital industry, and one representative of the business or consumer community. Representatives shall serve for a period of two years.

Subp. 3. Duties of appeals board. The appeals board shall review a hospital's request that its reimbursement rate be changed and recommend to the commissioner what action should be taken on the request.

9500.1145 PROCEDURES OF APPEALS BOARD.

Subpart 1. Notice of appeal. A hospital that wants to appeal a rate must notify the department of its intent to appeal within 30 days of the effective date of the rate appealed or within 30 days of the change in circumstances which prompted the appeal. The notice of appeal must state the rate appealed and the reasons for the appeal.

A. Within 90 days of the receipt of a notice of appeal, the board shall conduct a hearing.

B. The appeals board shall send notice of hearing to the hospital at least 20 days before the hearing. The notice shall contain, at a minimum, the following:

(1) the time, date, and place for the hearing;

(2) the name, address, and telephone number of the department's representative to be contacted to discuss informal disposition of the dispute;

(3) notification that a party need not be represented by an attorney but may choose to be represented by an attorney or any other person of their choice; and

(4) a statement advising parties that failure to appear at the hearing will result in default.

Subp. 2. Rights and obligations of appeals board. The following are the rights and obligations of the appeals board:

A. A member of the appeals board shall be free of any personal, political, or economic association that would impair his or her ability to function in a fair and objective manner. Should a board member believe that he or she cannot comply with this rule, the member shall withdraw from hearing the appeal.

B. A member of the appeals board shall not communicate, directly or indirectly, with any person or party concerning any issue of fact or law relevant to a pending case except upon notice to all parties and opportunity for them to participate except as otherwise permitted by these rules.

C. Consistent with law and parts 9500.1090 to 9500.1155, the appeals board shall perform the following duties:

(1) Appoint one of its members to act as chairperson.

(2) Examine witnesses as necessary to make a complete record.

(3) Issue a written report to the Commissioner regarding each appeal. The report shall contain findings of fact, conclusions, and a recommended disposition.

(4) All actions of the appeals board shall be by majority rule of the board members present.

(5) Do all things necessary and proper to the performance of the foregoing.

Subp. 3. Appeal rights. A hospital may appeal a decision of the commissioner by serving a written notice of appeal with the commissioner within 30 days of the date of service of the decision appealed. The appeal shall be conducted under the contested case procedures of Minnesota Statutes, chapter 14 and the rules of the Office of Administrative Hearings.

9500.1150 REIMBURSEMENT OF ADMISSIONS FOR HOSPITAL FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 1983, UNTIL JULY 28, 1985.

Subpart 1. Purpose. Under Minnesota Statutes, section 256.969, the annual increase in the cost per service unit for inpatient hospital services under medical assistance or general assistance medical care shall not exceed five percent for hospital rate years beginning during the 1985 biennium.

Subp. 2. Definitions. As used in this part, the following terms have the meanings given to them.

A. "Adjusted base year costs" means allowable base year costs cumulatively multiplied by the hospital cost index for a hospital's fiscal years prior to the budget year, and adjustments resulting from appeals.

B. "Allowable base year costs" means a hospital's reimbursable inpatient hospital costs as identified in a hospital's base year medicare/medical assistance cost report with the following adjustments:

(1) subtract malpractice insurance costs that have been apportioned to medical assistance;

(2) subtract pass-through costs (except malpractice insurance costs) apportioned to medical assistance based on the ratio of net reimbursable inpatient hospital costs to total reimbursable costs; and

(3) add the lower of cost or charge limitations for costs disallowed on the medicare/medical assistance cost report as provided by Public Law Number 92-603, section 223, inpatient routine service cost limitations, and Public Law Number 92-603, section 233.

C. "Minimal participation" means a hospital with fewer than 100 combined medical assistance and general assistance medical care admissions in the base year.

D. "Rate per admission" means the adjusted base year cost for each admission multiplied by the budget year HCI and adding the budget year pass-through cost per admission.

E. "Rate per day" means the allowable base year cost per day of inpatient hospital services multiplied by the budget year HCI and adding the budget year pass-through cost per day of inpatient hospital services.

Subp. 3. Determination of allowable base year costs, allowable base year cost for each admission, and allowable base year cost per day. The department shall determine allowable base year costs from the base year medicare/medical assistance cost report, using data from the HCFA Form 2552 Worksheet, 1981 revision. The department shall make the determination following the steps outlined in items A to P:

A. reimbursable inpatient hospital costs (Worksheet E-5, Part 1, line 13);

B. reimbursable malpractice insurance costs (Worksheet E-5, Part 1, line 5);

C. reimbursable professional services (Worksheet E-5, Part 1, line 11);

D. net reimbursable inpatient hospital costs (subtract items B and C from item A);

E. total reimbursable costs (Worksheet A, column 7, line 84);

F. ratio of net reimbursable inpatient hospital costs to total reimbursable costs (item D divided by item E);

G. pass-through costs;

H. medical assistance pass-through costs (item F multiplied by item G);

I. routine service costs before limitation (Worksheet D-1, line 57);

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PROPOSED RULES

- J. reimbursable routine service costs (Worksheet D-1, line 61);
- K. reimbursable routine service costs subject to limitation (subtract item J from item I);
- L. allowable base year costs (subtract item H from item D and add item K);
- M. base year admissions excluding medicare crossovers;
- N. allowable base year cost for each admission (item L divided by item M);
- O. base year patient days excluding medicare crossovers; and
- P. allowable base year cost per day (item L divided by item O).

Subp. 4. Determination of rate per admission and rate per day. The department shall determine the rate per admission and rate per day according to items A to G.

A. For each hospital's budget year, each hospital shall submit to the department a written report of pass-through costs. Pass-through cost reports must include actual data for the prior year and budgeted data for the current and budget years. Pass-through cost reports are due 60 days prior to the start of each hospital's budget year and must include the following information:

Subitem	Prior Year (Actual)	Current Year (Budget)	Budget Year (Budget)
(1) Depreciation	_____	_____	_____
(2) Rents and leases	_____	_____	_____
(3) Property taxes	_____	_____	_____
(4) License fees	_____	_____	_____
(5) Interest	_____	_____	_____
(6) Malpractice insurance	_____	_____	_____
(7) TOTAL PASS-THROUGH COSTS [subitems (1) to (6)]	_____	_____	_____

Pass-through costs are limited to subitems (1) to (6) as defined by medicare. Pass-through costs do not include costs derived from capital projects requiring a certificate of need for which the required certificate of need has not been granted.

B. The department shall determine the budget year pass-through cost per admission per day, or both, from the submitted pass-through cost reports as specified in item A as follows:

Subitem	Prior Year (Actual)	Current Year (Budget)	Budget Year (Budget)
(1) Ratio of net reimbursable inpatient hospital costs to total reimbursable costs [subpart 3, item F]	_____	_____	_____
(2) Pass-through costs as specified in [subpart 4, item A, subitem (7)]	_____	_____	_____
(3) Base year admissions [subpart 3, item M]	_____	_____	_____
(4) Pass-through cost per admission [subitem (2) divided by subitem (3)]	_____	_____	_____
(5) Base year patient days [subpart 3, item O]	_____	_____	_____
(6) Pass-through cost per day of inpatient hospital services [subitem (2) divided by subitem (5)]	_____	_____	_____

C. The department shall determine the rate per admission for a budget year as follows:

Rate
Per Admission = [(Adjusted base year cost for each admission) multiplied by (budget year HCI), plus (budget year pass-through cost per admission)]

D. The department shall determine the rate per day for a budget year as follows:

Rate
Per Day = [(Adjusted base year cost per day of inpatient hospital services) multiplied by (budget year HCI), plus (budget year pass-through cost per day of inpatient hospital services)]

E. After the end of each budget year, the commissioner shall redetermine the rate per admission or rate per day, or both. The commissioner shall substitute actual pass-through costs as determined by medicare for budgeted costs in item B, subitem (2) for that year. If an adjustment indicates an overpayment to the hospital, the hospital shall pay the department the overpayment within 60 days of formal notification from the department. If the adjustment indicates an underpayment to the hospital, the department shall pay the hospital the underpayment within 60 days of formal notification from the department. Interest charges will be assessed according to part 9500.1125, subpart 5.

F. A hospital with minimal participation shall be reimbursed on a rate per day in lieu of a rate per admission unless the hospital elects to be reimbursed on a rate per admission basis. To obtain reimbursement on a rate per admission basis, the hospital shall submit a written request to the commissioner at least 30 days prior to the beginning of the budget year for which reimbursement is sought.

G. The department shall apply the disproportionate population adjustment as specified in part 9500.1135, substituting the term adjusted base year cost per admission with a rate per admission or rate per day.

H. Reimbursement procedures are as specified in part 9500.1130, subparts 1 to 6.

I. Appeals must be made according to parts 9500.1140 and 9500.1145.

9500.1155 REIMBURSEMENT OF ADMISSIONS THAT OCCUR ON OR AFTER JANUARY 1, 1982, UNTIL PART 9500.1150 BECOMES EFFECTIVE.

Subpart 1. Purpose. Under Minnesota Statutes 1982, section 256.966, the annual increase in the cost per service unit paid to any vendor under medical assistance or general assistance medical care shall not exceed eight percent for services provided from January 1, 1982, until part 9500.1150 becomes applicable.

Subp. 2. Definitions. As used in this part, the following terms have the meanings given them:

A. "Adjusted base year costs" means allowable base year costs cumulatively multiplied by the eight percent cap for a hospital's fiscal years prior to the rate year, and adjustments resulting from appeals.

B. "Allowable base year costs" means a hospital's reimbursable inpatient hospital costs as identified in a hospital's base year medicare/medical assistance cost report with the following adjustments:

(1) subtract malpractice insurance costs that have been apportioned to medical assistance;

(2) subtract pass-through costs (except malpractice insurance costs) apportioned to medical assistance based on the ratio of net reimbursable inpatient hospital costs to total hospital costs; and

(3) add the lower of cost or charge limitations for costs disallowed on the medicare/medical assistance cost report as provided by Public Law Number 92-603, section 223, inpatient routine service cost limitations, and Public Law Number 92-603, section 233.

C. "Eight percent cap" means the limit on the annual cost increase per service unit under Minnesota Statutes, section 256.966.

D. "Rate per admission" means the allowable base year cost for each admission multiplied by the eight percent cap and adding the rate year pass-through cost per admission.

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PROPOSED RULES

E. "Rate per day" means the allowable base year cost per day of inpatient hospital services multiplied by the eight percent cap and adding the rate year pass-through cost per day of inpatient hospital services.

F. "Rate year" means any hospital fiscal year that includes the period from January 1, 1982, until part 9500.1150 becomes applicable.

G. "Total hospital costs" means the costs identified in the hospital's base year medicare/medical assistance cost report, HCFA Form 2552, 1981 revision, Worksheet A, column 3, line 84.

Subp. 3. Determination of allowable base year costs, allowable base year cost for each admission, and allowable base year cost per day. The department shall determine allowable base year costs from the base year medicare/medical assistance cost report, using data from the HCFA Form 2552 Worksheet, 1981 revision. The department shall make the determinations by following the steps outlined in items A to Q:

- A. reimbursable inpatient hospital costs (Worksheet E-5, Part 1, line 13);
- B. reimbursable malpractice insurance costs (Worksheet E-5, Part 1, line 5);
- C. net reimbursable inpatient hospital costs (subtract item B from item A);
- D. total hospital costs (Worksheet A, column 3, line 84);
- E. malpractice insurance costs (Worksheet A, column 5, line 71);
- F. net total costs (subtract item E from item D);
- G. ratio of net reimbursable inpatient hospital costs to net total costs (item C divided by item F);
- H. pass-through costs;
- I. medical assistance pass-through costs (item G multiplied by item H);
- J. routine service costs before limitation (Worksheet D-1, line 57);
- K. reimbursable routine service costs (Worksheet D-1, line 61);
- L. reimbursable routine service costs subject to limitation (subtract item K from item J);
- M. allowable base year costs (subtract item I from item C and add item L);
- N. base year admission excluding medicare crossovers;
- O. allowable base year cost for each admission (item M divided by item N);
- P. base year patient days excluding medicare crossovers; and
- Q. allowable base year cost per day of inpatient hospital services (item M divided by item P).

Subp. 4. Determination of rate per admission and rate per day. The following data shall be determined:

A. The department shall determine the rate year pass-through costs per admission or per day of inpatient hospital services, or both, for the rate year as specified in part 9500.1150, subpart 4, item B.

B. The department shall multiply the allowable base year costs by the eight percent cap.

C. The department shall determine the rate per admission for a rate year as follows:

Rate Per Admission	=	[(Allowable base year cost for each admission) multiplied by (8 percent cap), plus (rate year pass-through cost per admission)]
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In calculating the rate year pass-through cost per admission, the department shall use the total admissions from the hospital's base year.

After the initial year, adjusted base year costs are used in the rate per admission formula instead of allowable base year costs.

D. The department shall determine the rate per day for a rate year as follows:

Rate Per Day	=	[(Allowable base year cost per day of inpatient hospital services) multiplied by (8 percent cap), plus (rate year pass-through cost per day of inpatient hospital services)]
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In calculating the rate year pass-through cost per day of inpatient hospital services, the department shall use the total days of inpatient hospital services from the hospital's base year.

After the initial year, adjusted base year costs are used in the rate per day formula instead of allowable base year costs.

E. A hospital with minimal participation, as specified in part 9500.1150, subpart 4, item F, shall be reimbursed on a rate per day in lieu of rate per admission unless the hospital elects to be reimbursed on a rate per admission basis.

F. The department shall apply the disproportionate population adjustment as specified in part 9500.1135, substituting the term adjusted base year cost per admission with rate per admission or rate per day.

G. Reimbursement procedures are as specified in part 9500.1130, subparts 1 to 6.

H. Appeals must be made according to parts 9500.1140 and 9500.1145.

Subp. 5. Four percent reduction. Reimbursement for admissions is reduced four percent from January 1, 1983, through June 30, 1983, as provided in Laws of Minnesota 1982, Third Special Session, chapter 1, article 2, section 2, subdivision 4, paragraph (a), clause (4). Each rate per admission and each rate per day as determined under subpart 4 for each admission during the period from January 1, 1983, through June 30, 1983, shall be reduced by four percent.

Department of Natural Resources Boat and Water Safety

Proposed Rule Relating to Lower St. Croix Surface Use

Notice of Intent to Amend a Rule without a Public Hearing

Notice is hereby given that the Minnesota Department of Natural Resources ("department") intends to adopt an amendment to the above-referenced department rule without public hearing because of the noncontroversial nature of the amendment. (This amendment was originally published as a proposal at 8 SR 1674, but was automatically withdrawn after 180 days, as required in M.S. § 14.26. The delay was a result of the delay by the State of Wisconsin in adopting an identical amendment. On December 1, 1984, Wisconsin adopted the amendment.)

Persons interested in these rules and amendments shall have 30 days to submit comments on the proposed rules and amendments. The proposed rules and amendments 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. Persons who wish to submit comments should submit such comments to Kim Elverum, Minnesota Department of Natural Resources, Box 46—500 Lafayette Road, St. Paul, MN 55146.

No public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, §§ 14.31-14.20.

Authority for the adoption of these rules is contained in Minnesota Statutes, § 361.26, subd. 2. A Statement of Need and Reasonableness describing the need for and reasonableness of the amendment has been prepared and is available upon request at the above address.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the address listed above.

A copy of the proposed amendment is attached.

February 5, 1985

Joseph N. Alexander, Commissioner
Department of Natural Resources

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PROPOSED RULES

Rule as Proposed

6105.0340 WATER SKIING.

Subpart 1. and 2. [Unchanged.]

Subp. 3. At sandbars. From ~~Memorial Day~~ May 15 through ~~Labor Day~~ September 15, inclusive, no watercraft towing a person on water skis, aquaplane, or similar device shall operate after 12:00 noon on Saturdays, Sundays, and legal holidays, from the sandbars located approximately at mile 31.0 to the upper end of the federal nine-foot navigation channel approximately at mile 24.5.

Board of Nursing

Proposed Rules Relating to Licensure

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Nursing proposes to repeal and adopt the above-entitled rules without a public hearing. The Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 14.21-14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed 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.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 14.13-14.18.

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

Sandra MacKenzie
Minnesota Board of Nursing
717 Delaware Street Southeast
Minneapolis, Minnesota 55414
(612) 623-5493

Authority for the adoption of these rules is contained in Minn. Stat. §§ 148.211, 231, 291 and 296 (1982). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Sandra MacKenzie upon request at the above listed address.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Sandra MacKenzie at the above listed address.

[A copy of the proposed rules is attached to this notice.]

Copies of this notice and the proposed rules are available and may be obtained by contacting Sandra MacKenzie at the above listed address.

Joyce M. Schowalter
Executive Secretary
Minnesota Board of Nursing

Rules as Proposed (all new material)

REPEALER. Minnesota Rules, parts 6310.0200; 6310.0300; 6310.0400; 6310.0500; 6310.0600; 6310.1100; 6310.1200; 6310.1300; 6310.1400; 6310.2100; 6310.2200; 6310.5100; 6310.5200; 6310.5300; 6310.5400; 6310.5500; 6310.6100; 6310.6200; 6310.7100; and 6310.7200, are repealed.

Pollution Control Agency

Proposed Rule Relating to Water Quality, Fecal Coliform Effluent Limitations

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "Agency") intends to adopt the above-entitled rule amendment without a public hearing. The Agency has determined that the proposed adoption of this rule amendment will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes Sections 14.22-14.28 (1984).

If adopted, the proposed amendment would delete two requirements from the fecal coliform effluent limitation that are overly restrictive and inconsistent with current Agency permitting and enforcement policy. The current fecal coliform effluent limitation includes 1) a monthly logarithmic mean limitation of 200 organisms per 100 milliliters, 2) a requirement that no more than ten percent of the monthly samples individually can exceed 400 organisms per 100 milliliters, and 3) a requirement that at least five samples be taken per month. The Agency proposes to delete parts 2 and 3 from the limitation. The Agency is not proposing to change part 1 of the effluent limitation, nor is the Agency proposing any changes to the fecal coliform water quality standards.

Fecal coliform effluent limitations are placed on all dischargers that contain domestic sewage. Dischargers must disinfect (usually with chlorine) their treated wastewater during the warm weather months to meet this limitation in order to maintain water quality standards applicable to surface waters. Full enforcement of the current fecal coliform effluent limitation would probably force dischargers to use more chlorine than is necessary to maintain the fecal coliform water quality standard. The Agency prefers to minimize the use of chlorine by dischargers because chlorine is toxic to aquatic life, and it can combine with organics in natural waters to form chloro-organic compounds, some of which are carcinogens.

All dischargers must monitor the quality of their effluent and report these results to the Agency every month. While the rule presently requires five samples per month, for many small dischargers, one or two samples per month has been considered adequate by the Agency to determine compliance.

Thus, the purpose of the proposed change is to avoid excessive use of chlorine by dischargers in the future and to make the rule consistent with established Agency policy on monitoring frequencies for small dischargers. The Agency has prepared a Statement of Need and Reasonableness in support of the proposed change. Copies of this statement may be obtained by contacting: David Maschwitz, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113. (612) 296-7252.

The Agency is authorized to adopt this rule amendment under Minnesota Statutes Section 115.03 subdivision 1(e) and Section 115.44 subdivision 4 and 5(e).

Persons interested in this rule change are encouraged to submit comments in support of or in opposition to the proposed amendment. Comments on the proposed rule must be submitted no later than March 27, 1985 to David Maschwitz at the address given above. Also, persons submitting written comments should identify their suggested modifications to the proposed fecal coliform effluent limitation, and the reasons and data relied on to support the suggested modifications. The proposed rule may be modified if the modifications are supported by the data and the views submitted to the Agency, and the modifications do not result in a substantial change in the proposed language.

If 25 or more persons submit a written request for a public hearing on this proposed amendment within the comment period, a public hearing will be held. Requests for a public hearing should be submitted to David Maschwitz before the close of the comment period on March 27, 1985. Any person requesting a public hearing should state his or her name and address, the reason for the request and any change proposed. In the event a public hearing is required, the Agency will proceed according to the provisions of Minnesota Statutes Sections 14.131-14.20 (1984).

In the case where the final rule can be adopted without a public hearing, the proposed rule, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to the legality of the final rule, and its form to the extent the form relates to legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to David Maschwitz at the address noted above.

Please be advised that Minnesota Statutes Chapter 10A requires each lobbyist to register with the State Ethical Practices Board

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PROPOSED RULES

within five days after he or she commences lobbying. Lobbyist is defined in Minnesota Statutes Section 10A.01, subd. 11 (1982) as an individual:

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

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

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

February 5, 1985

Michael Robertson
for
Thomas J. Kalitowski
Executive Director
Minnesota Pollution Control Agency

Rule as Proposed

7050.0210 STANDARDS FOR DISCHARGERS TO WATERS OF THE STATE.

Subpart 1. to 5. [Unchanged.]

Subp. 6. Minimum secondary treatment. It is herein established that the agency shall require secondary treatment as a minimum for all municipal sewage and biodegradable industrial or other wastes to meet the adopted water quality standards. A comparable high degree of treatment or its equivalent also shall be required of all nonbiodegradable industrial or other wastes unless the discharger can demonstrate to the agency that a lesser degree of treatment or control will provide for water quality enhancement commensurate with present and proposed future water uses and a variance is granted under the provisions of the variance clause. Secondary treatment facilities are defined as works which will provide effective sedimentation, biochemical oxidation, and disinfection, or the equivalent, including effluents conforming to the following:

Substances or Characteristic	Limiting Concentration or Range*
5-Day carbonaceous biochemical oxygen demand*	25 milligrams per liter
Fecal coliform group organisms***	200 organisms per 100 milliliters
Total suspended solids*	30 milligrams per liter
Oil	Essentially free of visible oil
Phosphorus**	1 milligram per liter
Turbidity	25
pH range	6.0-9.0
Unspecified toxic or corrosive substances	None at levels acutely toxic to humans or other animals or plant life, or directly damaging to real property.

*The arithmetic mean for concentrations of five-day carbonaceous biochemical oxygen demand and total suspended solids shall not exceed the stated values in any calendar month and 45 milligrams per liter in any calendar week.

**Where the discharge of effluent is directly to or affects a lake or reservoir, removal of nutrients from all wastes shall be provided to the fullest practicable extent wherever sources of nutrients are considered to be actually or potentially detrimental to preservation or enhancement of the designated water uses.

***Disinfection of wastewater effluents to reduce the levels of fecal coliform organisms to the stated value is required from March 1 through October 31 (Class 2 waters) and May 1 through October 31 (Class 7 waters) except that where the effluent is discharged 25 miles or less upstream of a water intake supplying a potable water system, the reduction to the stated value is required year around. The stated value is not to be exceeded in any calendar month as determined by the logarithmic mean of a minimum of five samples, nor shall more than ten percent of all samples taken during any calendar month individually exceed 400 organisms per 100 milliliters all the samples collected in a given calendar month. The application of the fecal coliform group organism standards shall be limited to sewage or other effluents containing admixtures of sewage and shall not apply to industrial wastes except where the presence of sewage, fecal coliform organisms, or viable pathogenic organisms in such wastes is known or reasonably certain. Analysis of samples for fecal coliform group organisms by either the multiple tube fermentation or the membrane filter techniques is acceptable.

Subp. 6a. to 18. [Unchanged.]

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.

Pollution Control Agency

Extension of Emergency Amendments to Rules and Adopted Emergency Rules Governing Water Pollution Control Fund and Federal Grants

NOTICE IS HEREBY GIVEN that on January 22, 1985, the Minnesota Pollution Control Agency ordered that emergency rules to Minn. Rules ch. 7075, relating to the administration of the construction grant programs for municipal sewage treatment projects, be continued in effect for an additional 180 days. The emergency rules were effective on August 16, 1984, and published in the *State Register* as Adopted at Volume 9, Number 9 (9 SR 424). The proposed emergency rules were published at 8 SR 2698-2712. This continuation is in accordance with Minnesota Statutes, section 14.35. The new expiration date for the emergency rules in chapter 7075 is August 10, 1985, or the date these emergency rules are replaced by permanent rules, whichever date is earlier.

January 23, 1985

Thomas J. Kalitowski
Executive Director

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.

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 Energy and Economic Development Energy Division

Availability of the 1984 Biennial Report of the Division of Energy

Notice is hereby given that the 1984 biennial report: "Ten years after the oil crisis: Lessons for the coming decade" has been completed and is available. The report was written by the Energy Division of the Minnesota Department of Energy and Economic Development in accordance with Minnesota Statute 116J.18. Under the provisions of 1165.18, Subd. 2, one copy of the report can be obtained from:

Energy Information Center
Energy Division
Minnesota Department of Energy & Economic
Development
900 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
296-5175 (Twin Cities)
1-800-652-9747

Ethical Practices Board

Advisory Opinion #91

Re: Replacement of Lost Contribution Check

Approved by the Ethical Practices Board on January 31, 1985

Issued to:

L. Ashley Whitesell, Jr., M.D., Chairman
Minnesota Medical Political Action Committee (MINNPAC)
P. O. Box 14469
Minneapolis, MN 55414

91. When a candidate has received and acknowledged a political committee's contribution check in an election year but lost the check before it could be deposited, the political committee should be allowed to replace the intended contribution and the candidate should be allowed to accept the replacement contribution even though both actions occur in a nonelection year.

The full text of Opinion 91 is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

Department of Health

Outside Opinion Sought Regarding Proposed Rules Governing the Relocation of Nursing Home Residents

Notice is hereby given that the Minnesota Department of Health is considering adoption of 7 MCAR § 1.801 [Temporary] as a permanent rule. This rule was published February 6, 1984 at 8 S.R. 1809.

This rule is authorized by Laws of Minnesota 1983, Chapter 199. The rule establishes the procedures to be followed by a nursing home or certified boarding care home in the event relocation of some or all of its residents becomes necessary. There are no changes anticipated in the rule at this time.

All interested or affected persons or groups shall have 30 days from the date of publication of this Notice to submit written

statements of information and comments to: Robert Eelkema, Minnesota Department of Health, Health Resources Division, P.O. Box 9441, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440.

Any material received will become part of the rulemaking record.

Department of Human Services Health Care Programs

Notice of Hospital Cost Index

Pursuant to 12 MCAR § 2.05401, D. 1. (Temporary) hospitals participating in the Medical Assistance and General Assistance Medical Care programs are subjected to a Health Cost Index (HCI) that is used in the determination of prospective inpatient hospital rates. Each hospital whose fiscal year starts during a given calendar quarter shall be notified of the HCI to be used 30 days prior to the start of that quarter. It has been determined that the HCI is 6.4 percent according to an independent source, Data Resources, Inc. for Health Care Costs. However, pursuant to Senate File 1234, Article 5, Section 9 (1983), the HCI is subjected to the legislatively imposed limit of 5 percent. Consequently the HCI is 5 percent for hospitals whose fiscal years begin during the calendar quarter beginning April 1, 1985.

Leonard W. Levine, Commissioner
Department of Human Services

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is March 19, 1985.

MINNESOTA STATE ARTS BOARD has 1 vacancy open for a member. The board supports and encourages the arts by providing grants, publications, consultant services, conferences and workshops. Members are appointed by the Governor and confirmed by the Senate. Members must file with EPB. Ten meetings per year at the board office; members receive \$35 per diem plus expenses. For specific information contact the Minnesota State Arts Board, 432 Summit Ave., St. Paul 55102; (612) 297-2603.

CONSUMER ADVISORY COUNCIL ON VOCATIONAL REHABILITATION has 1 vacancy open for public member. The council advises the Assistant Commissioner of Vocational Rehabilitation on policy matters relating to vocational rehabilitation services. Members are appointed by the Commissioner of Economic Security. Meetings bi-monthly in St. Paul; members receive \$35 per diem. For specific information contact the Consumer Advisory Council on Vocational Rehabilitation, 3rd Floor, Space Center, St. Paul 55101; (612) 296-1822.

INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL has 1 vacancy open for a member representing school districts outside of the metropolitan area. The council assists local governments in developing automated information systems by awarding grants. Members are appointed by the Commissioner of Administration. Monthly meetings. For specific information contact the Intergovernmental Information Systems Advisory Council, Roger Sell, 5th Floor, Centennial Bldg., 658 Cedar St., St. Paul 55155; (612) 297-2172.

STATE INFORMATION SYSTEMS ADVISORY TASK FORCE has 6 vacancies open for top management information systems persons from large non-computer manufacturing organizations. The task force assists the Dept. of Administration in developing a state information service master plan; makes recommendations to the Commissioner on the state's computerization effort. Members are appointed by the Commissioner of Administration. Monthly meetings or at the call of the chairperson; members receive no compensation. For specific information contact State Information Systems Advisory Task Force, Nancy Abraham, 5th Floor, Centennial Bldg., 658 Cedar St., St. Paul 55155; (612) 296-8083.

Department of Transportation

Petition of Aitkin County for a Variance from State Aid Standards for Recovery Area

Notice is hereby given that the County Board of Aitkin County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on CSAH 14 from T.H. 65 to 2.4 Miles Northeast.

OFFICIAL NOTICES

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9910 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit a recovery area of 27 instead of the required 30 feet from the edge of the surfaced roadway.

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

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

February 14, 1985

Richard P. Braun
Commissioner

Department of Transportation

Petition of the Cities of Minneapolis, Edina and St. Louis Park for a Variance from State Aid Standards for Number of Lanes and Street Width

Notice is hereby given that the City Councils of Minneapolis, Edina and St. Louis Park have made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on France Avenue from West 49½ Street to Excelsior Boulevard.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit two lanes of traffic instead of the required four lanes, and to permit a street width of 36 instead of the required 38 feet.

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

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

February 14, 1985

Richard P. Braun
Commissioner of Transportation

STATE CONTRACTS

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

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

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

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
04-131-26267	Lease Agreement for: 40 Digital Scales Mettler PE/600/49	Agriculture	Minneapolis	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
78-620-20717	T-Bar Chain & Connectors	MN Correctional Facility	Stillwater	Contact buyer
34-000-04511	PBX Telephone System	Housing Finance Agency	St. Paul	Contact buyer
39-000-03836	Speech Prompter	Governor's Office	St. Paul	Contact buyer
Contract	Photocopy Machine Rental	Various	Various	Contact buyer
Contract	Laminated Materials—Formica, Nevamar, etc.	MN Correctional Facility	Lino Lakes	\$40,000-45,000
55-201-06082, etc.	Riding Mowers	Various	Various	Contact buyer
26-071-14942	Network Analyzer	Mankato State University	Mankato	Contact buyer
26-071-14899	DC Power Supply	Mankato State University	Mankato	Contact buyer
26-071-14943	EFFA Evaporator	Mankato State University	Mankato	Contact buyer
26-071-14907	Calibration Generator	Mankato State University	Mankato	Contact buyer
79-000-46457	Signal Cabinet Comp. Parts	Transportation	Roseville	Contact buyer
Contract	Water Softening Salt	Various	Various	\$30,000-35,000
Sch. 105	Herbicides	Various	Various	Contact buyer
Contract	Trout & Salmon Feed	Natural Resources	Various	\$90,000-100,000
Various	Sample Bags	Transportation	Various	Contact buyer
Sch 113-H	Trucks	Transportation	St. Paul	Contact buyer
21-200-09325	Open Metal Shelving	Economic Security	St. Paul	Contact buyer
26-074-09862	Desk Top Controller	Winona State University	Winona	Contact buyer
26-072-09130	Floor Maintenance Equip.	Moorhead State University	Moorhead	Contact buyer
21-602-83912	Used Van & Lift	Vocational Rehabilitation	Homewood, Alabama	Contact buyer
Contract	Specialty Gases	Various	Various	\$2,000-2,500
79-100-03296, etc.	Fiber Cylinder Molds	Transportation	Various	Contact buyer
Contract	Window Glass for Maintenance	Various Agencies	Various Agencies	\$20,000-25,000
79-000-44399, etc.	Snow Plows	Transportation	Various	Contact buyer
Contract	Rotary Lawn Mowers	Various	Various	\$12,000-18,000
Contract	Elevator Maintenance Service	Iron Range Resources & Rehabilitation Board	Chisholm	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Energy and Economic Development Energy Finance Division

Cycle VII of the Institutional Buildings Grants Program (IBGP)

Public and private non-profit schools and hospitals are eligible to compete for approximately \$1.3 million in federal funds for maxi-audits (Technical Assistance) or energy conservation measures (ECMs). Grants will be awarded on a competitive basis for 50% of project costs. The remaining 50% must be from non-federal resources. Hardship grants for more than 50% may be possible.

The cycle VII application deadline is 4:30 p.m., Wednesday, May 1, 1985. For more information, call (612) 297-2103 or write: IBGP, Energy Finance Division, Department of Energy and Economic Development, 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, MN 55101.

STATE CONTRACTS

Governor's Council on Rural Development Pilot Marketing Grant Program

The Governor's Council on Rural Development has funds available to expand, improve and develop markets for agricultural products in Minnesota. The intent of this program is to fund groups who do not have the funds or expertise to develop a marketing strategy for their products.

The GCRD has \$40,000 available, with a maximum grant amount of \$5,000. Eligible uses of funds include, advertising and promotion; publications and brochures; and technical services to develop promotional materials. Project must be completed by December 31, 1985.

Agricultural products for the purpose of this program include: animal and animal products; fruits and vegetables; mushrooms; bees and apiary products; and wood products which are grown, raised, produced, fed or processed within the State of Minnesota.

Applications will be accepted by MN DEED/GCRD no later than March 13, 1985. Requests for grant applications should be directed to:

Lori Widmark, Program Manager
Governor's Council on Rural Development
Department of Energy & Economic Development
900 American Center Building
150 E. Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-1968

Governor's Council on Rural Development Request for Proposals for a Development Region Strategy

The Governor's Council on Rural Development (GCRD) is requesting proposals for a development region strategy in regions 4, 7W and 10 where no Regional Development Commissions currently exist.

The product of the contract will be a strategy in each of the GCRD issue areas which reflects the needs of the particular region and demonstration grant concepts suitable for local or statewide demonstration program implementation. The GCRD issue areas are: preserving the family farm and protecting the state's agricultural land resources; providing technical assistance to rural small businesses; and, promoting the value-added processing and marketing for Minnesota's agricultural and forest products.

In addition, the contractor will provide technical assistance to eligible organizations interested in applying for GCRD Demonstration Grant funds, and monitor existing GCRD grant projects in the region, and assist GCRD staff with local implementation of work program activities.

The Council has budgeted \$10,000 per development region. Proposals should be received by MN DEED/GCRD no later than 4:30 p.m. on March 13, 1985. The formal Request for Proposals document may be requested and inquiries should be directed to:

Lori Widmark
Governor's Council on Rural Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
612-296-3993

SUPREME COURT

Decisions Filed Friday, February 15, 1985 Compiled by Wayne O. Tschimperle, Clerk

C4-83-1098 State of Minnesota, Respondent v. Janice Eppler, Appellant. Ramsey County.

Defendant received a fair trial and was properly found guilty of theft; two of defendant's three theft convictions, all of which were based on the same act, must be vacated pursuant to Minn. Stat. § 609.04 (1984).

Affirmed in part, reversed in part. Peterson, J.

C4-83-548 State of Minnesota, Respondent, v. Raymond Richard Ortlepp, Appellant. Clay County.

Defendant received a fair trial and was properly found guilty of aggravated criminal damage to property and of unjustifiably killing an animal. Defense counsel's failure to object to prosecutor's calling defendant's accomplice for the purpose of getting the accomplice's prior statement before the jury under the guise of impeachment was not prejudicial because the prior statement was admissible as subjective evidence under Minn. R. Evid. 803(24).

Affirmed. Todd, J.

C4-83-1344 Marvin E. Fallin, Appellant, v. Maplewood-North St. Paul District No. 622, and Jeffrey Nelson, Respondents. Court of Appeals.

1. The standard of care of school districts is that of reasonable care, and the trial court should not be reversed on the basis of a claim of error with respect to fundamental law and controlling principle where the proper instructions on general negligence were given, the record contains no objection thereto, and no post-trial motions were presented.

2. It is well settled that a special verdict will not be overturned unless it is palpably contrary to the evidence.

Reversed and remanded with instruction. Scott, J.

C2-84-1692 Bethune Associates, Petitioner, Respondent, v. County of Hennepin, Relator. Tax Court.

The 1984 amendment to Minn. Stat. § 278.05, subd. 4 does not preclude the evidentiary use of unadjusted Department of Revenue sales ratio studies for those assessment years for which the Department lacks the data needed to adjust its studies.

Affirmed. Yetka, J.

C0-83-630 State of Minnesota, Respondent, v. Lloyd Allen Hanley, Appellant. Anoka County.

1. One who had the key to an apartment in which the appellant resided, paid the rent, kept clothing and personal belongings in the apartment, and more or less regularly lived there had authority to freely and voluntarily consent to a search of the apartment by the police.

2. Appellant failed to substantiate allegations that he was deprived of effective assistance of counsel because law enforcement officers allegedly intercepted communications between appellant and his attorney.

3. Statements of an accomplice to a crime made to police were not excludable hearsay because they were not admitted in evidence to prove the truth of the matter asserted.

4. When evidence is conflicting and susceptible of different interpretations, the question of whether the witness is an accomplice is for jury resolution.

Affirmed. Kelley, J.

C5-83-591 and C0-83-613 Loren J. Pietila, Trustee for the Heirs of Velma K. Pietila, Decedent, Respondent (C5-83-591), Appellant (C0-83-613), v. Thomas E. Congdon, Salisbury Adams and William P. Van Evera, Individually and as Trustees under the Will of Chester A. Congdon, Deceased, Appellants (C5-83-591), Respondents (C0-83-613), First Bank (N.A.) Duluth, as Executor of the Estate of Elisabeth M. Congdon, Deceased, and William P. Van Evera, as Conservator of the Estate of Elisabeth M. Congdon, Deceased, and Congdon Office Corporation, Inc., Respondents. St. Louis County.

There was not sufficient evidence introduced at trial to allow the jury to find that the negligence of any of the parties was a direct cause of the death of plaintiff's decedent.

Reversed in part; affirmed in part. Coyne, J.

Dissenting, Yetka, J. and Wahl, J.

Order Filed February 4, 1985**C7-84-568 In the Matter of the Application for the Discipline of Patrick D. O'Brien, an Attorney at Law of the State of Minnesota. Supreme Court.**

In the circumstances presented, the lawyer's violations of the rules of professional conduct warrant an indefinite suspension, with leave to apply for readmission in two years.

Per Curiam.

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B29 State Capitol, St. Paul, MN 55155
(612) 296-0504

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Room 8 State Capitol, St. Paul, MN 55155
(612) 296-2146

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Room 111 Capitol

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