

85, July 8

STATE REGISTER

STATE OF MINNESOTA

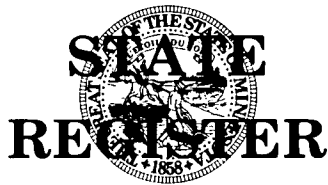
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July 8, 1985

Pages 37-84



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, 10			
3	Friday June 28	Monday July 8	Monday July 15
4	Monday July 8	Monday July 15	Monday July 22
5	Monday July 15	Monday July 22	Monday July 29
6	Monday July 22	Monday July 29	Monday August 5

*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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Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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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CONTENTS

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 1-2, inclusive 40

PROPOSED RULES

Commerce Department

Proposed Repeal of Contested Case Procedure and Advertisement of Sickness and Accident Insurance Rules 41

Proposed Rules Governing Security Requirements of Self-Insurers Under the No-Fault Automobile Insurance Act 42

Proposed Rule Relating to Comprehensive Health Insurance 43

Human Services Department

Proposed Rules Relating to Grants for Providing Semi-Independent Living Services to Persons with Mental Retardation 44

Proposed Rules Relating to Special Needs Rate Exception for Very Dependent Persons with Special Needs 54

ADOPTED RULES

Commerce Department

Adopted Rules Relating to Nonrenewal of Homeowners Insurance 66

Higher Education Coordinating Board

Adopted Emergency Rules Relating to Supplemental Loans to Post-Secondary Students 66

Human Services Department

Adopted Rules for Training and Habilitation Reimbursement Procedures for ICF/MR's 68

Pollution Control Agency

Adopted Rules Relating to Hazardous Waste 70

Secretary of State

Adopted Rules Relating to Financing Statements 70

OFFICIAL NOTICES

Finance Department

Maximum Interest Rate for Municipal Obligations, July, 1985 70

Health Department

Emergency Medical Services Licensure Application/Praxel Ambulance, Inc., Winona 71

Human Services Department

Outside Opinion Sought Regarding Proposed Rule Governing Indian Relief 71

STATE CONTRACTS

Administration Department

Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding 72

Human Services Department

Request for Proposals for Women's Treatment 73

Human Services Department

Minnesota Board on Aging

State Funds Available for New Retired Senior Volunteer Programs: Amount, Purpose, and Eligibility 73

Human Services Department

Office of Child Support Enforcement

Request for Proposals to Study System Development for the Minnesota Child Support Enforcement Division 74

State Designer Selection Board

Request for Proposals for State Projects 74

SUPREME COURT

Decision Filed Wednesday, June 19, 1985 76

NOTICE

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.

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

MINNESOTA RULES AMENDMENTS AND ADDITIONS

DEPARTMENT OF COMMERCE

Chap. 2610; 2745 (proposed repeal) 41
2740.4300 (proposed) 43
2770.6500; .6800 (proposed) 42
2880.0050-.0800 [9 SR 956] (adopted) 66

SENTENCING GUIDELINES COMMISSION

3000.0100-.0600 (proposed) 14

STATE BOARD OF EDUCATION

3500.1150 [9 SR 1680] (adopted) 16

ENERGY, PLANNING AND DEVELOPMENT

Energy Division

4200.2100-.4050; .4300 (proposed) 8
4200.2100, s.3,6; .2200, s.3; .2500; .2700; .3000, s.3,4,9,10; .3000; .3400; .3500; .3600; .3700; .3800 (proposed repeal) 8
4200.4500; .4600; .4700; .4800; .4900; .5000 (proposed) 5

HIGHER EDUCATION COORDINATING BOARD

4850.0010-.0018 [Emer] [9 SR 1783; 2400] (adopted) 66

DEPARTMENT OF LABOR AND INDUSTRY

5205.0100 [Standards] (proposed) 13
5220.1400 [9 SR 2172] (adopted) 17

POLLUTION CONTROL AGENCY

7001.0650; .0135; .0214 [9 SR 2833] (adopted) 70

REVENUE DEPARTMENT

Property Equalization Division

8100.0300 [9 SR 2374] (adopted) 18

SECRETARY OF STATE

8260.0100; .0200 [9 SR 2173] (adopted) 70

DEPARTMENT OF PUBLIC WELFARE

(Now HUMAN SERVICES)

9510.1020-.1140 (proposed) 54
9525.0015-.0145 (second notice) 19
9525.0900-.1020 (proposed) 44
9525.1200-.1330 [9 SR 2094] (adopted) 68

PROPOSED RULES

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

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

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

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

Department of Commerce

Proposed Repeal of Contested Case Procedure and Advertisement of Sickness and Accident Insurance Rules

Notice of Intent to Repeal Rules without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the repeal of the rules. Each comment should identify the portion of the rule addressed, the reason for the comment, and any change proposed. The 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.

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

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

Authority for the rules that are to be repealed is contained in Minnesota Statutes, Section 45.032 and Section 72A.19. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of the repeal of the rules and identifying the data and information relied upon to support the repeal of the rules has been prepared and is available upon request.

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

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

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

Copies of this notice and the repealer of the rules may be obtained by contacting Rose Weiner at the above address (612) 296-3528.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

REPEALER. Minnesota Rules, parts 2610.0100; 2610.0200; 2610.0250; 2610.0300; 2610.0400; 2610.0500; 2610.0600; 2610.0700; 2610.0800; 2610.0900; 2610.1000; 2610.1400; 2610.1400; 2610.1200; 2610.1300; 2610.1400; 2610.2100; 2610.2200; 2610.2300; 2610.2400; 2610.2500; 2610.2600; 2610.2700; 2610.2800; 2610.3100; 2610.3200; 2610.3300; 2610.3400; 2610.3500; 2610.3600; 2610.3700; 2610.3800; 2745.0100; 2745.0200; 2745.0300; 2745.0400; 2745.0500; 2745.0600; 2745.0700; 2745.0800; 2745.0900; 2745.1000; 2745.1100; 2745.1200; 2745.1300; 2745.1400; 2745.1500; 2745.1600; 2745.1700; 2745.1800; and 2745.1900, are repealed.

Department of Commerce

Proposed Rules Governing Security Requirements of Self-Insurers Under the No-Fault Automobile Insurance Act

Notice of Intent to Adopted Rules without a Public Hearing

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

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

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

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

Authority for the adoption of these rules is contained in Minnesota Statutes section 65B.48. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

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

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

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 Rose Weiner at the above address. Telephone (612) 296-3528.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed**2770.6500 AUTHORIZATION STANDARDS.**

Subpart 1. Political subdivisions. The commissioner shall grant self-insurance authority to an applicant that is a political subdivision if it satisfies these conditions:

A. at least 25 motor vehicles are registered in its name; and

B. it has, or has contracted with a licensed vendor of risk management services to provide, the administrative resources needed to:

- (1) process, review, and pay claims;
- (2) evaluate the medical and rehabilitation needs of automobile accident victims; and
- (3) estimate current and future loss liabilities.

A political subdivision that has satisfied the foregoing conditions is not required to satisfy the security requirement of part 2770.6800.

Subp. 2. [Unchanged.]

2770.6800 SECURITY REQUIREMENT.

Subpart 1. Surety bond required. An authorized self-insurer, except political subdivisions that have satisfied the requirements of part 2770.6500, subpart 1, items A and B, shall maintain a surety bond written by a corporate surety authorized to do business in Minnesota. The bond must be filed with the commissioner and name the "Commissioner of Commerce - State of Minnesota" as its obligee.

Supb. 2. to 5. [Unchanged.]

Department of Commerce

Proposed Rule Relating to Comprehensive Health Insurance

Notice of Intent to Adopt Rules without a Public Hearing

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

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

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

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

Authority for the adoption of these rules is contained in Minnesota Statutes section 62E.09 (i). Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Statutes, section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The

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PROPOSED RULES

Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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

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 Rose Weiner at the above address. Telephone (612) 296-3528.

Michael A. Hatch
Commissioner of Commerce

Rule as Proposed

2740.4300 SELECTION AND APPROVAL OF WRITING CARRIERS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. Bids for renewal. Six months prior to the expiration of each three-year period of service by a writing carrier, the association shall invite ~~insurer and health maintenance organization~~ members of the association, including the current writing carriers, to submit bids to serve as writing carrier for the succeeding three-year period.

Department of Human Services

Proposed Rules Relating to Grants for Providing Semi-Independent Living Services to Persons with Mental Retardation

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-Five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-mentioned rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 252.275.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON AUGUST 16, 1985 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services before August 16, 1985 at (612) 297-4979.

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

Mary Jo Verschay
Department of Human Services
Mental Retardation Division
4th Floor Centennial Office Building
St. Paul, MN 55115
Telephone 612/297-4979

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on August 7, 1985.

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

Minnesota Rules, parts 9525.0900 to 9525.1020 establish procedures for implementing a statewide program or Semi-Independent Living Services (SILS) to assist county boards in reducing the utilization of intermediate care facilities for persons with mental retardation. Parts 9525.0900 to 9525.1020 govern the awarding and administration of grants by the commissioner of the Department of Human Services to county boards under Minnesota Statutes, section 252.275, for the provision of SILS to persons with mental retardation. Parts 9525.0900 to 9525.1020 do not govern SILS funded as a community social service under Minnesota Statutes, sections 256E.01 to 265E.12.

Parts included in the proposed rule parts are definitions; purposes and applicability; client eligibility criteria; approved provider; county board and provider contract and county board efforts to hire displaced state hospital staff; reimbursement standards; grant application and approval; increases and new awards; reduction, termination and repayment of grants; review of commissioner's action; and penalty for noncompliance with applicable laws and rules.

Parts 9525.0900 to 9525.1020 are proposed as a permanent rule to replace 12 MCAR §§ 2.02001-2.02011 [Temporary], commonly known as Rule 20. The substance of the proposed permanent rule parts remain essentially the same as in the temporary rule parts, with three major exceptions. Client eligibility criteria no longer require a person with mental retardation to have a state or federal determination of disability as a condition of eligibility for SILS. Transportation time to and from service sites is allowable as a direct contact activity in the unit of service definition. Requirements for county board and provider contracts have been added to make the proposed permanent rule parts consistent with other permanent rules being proposed by the department. Extensive revisions in numbering, language, and organization have been made, however, to increase clarity and facilitate ease of reference to the rule.

A copy of the rule is available upon request for your review from:

Susan Canine
Department of Human Services
Mental Retardation Division
4th Floor Centennial Office Building
St. Paul, MN 55155
Telephone 612/297-1241

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mary Jo Verschay upon request.

The Department estimates that the cost to all local public bodies of implementing these rules will not exceed \$100,000 in either of the first two years following the adoption.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Mary Jo Verschay.

June 18, 1985

Leonard W. Levine
Commissioner of Human Services

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, 20 West 12th St., St. Paul, Minnesota 55155 in Room D, 5th floor on August 16, 1985 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITH-

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PROPOSED RULES

OUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 8 and August 15, 1985 at 612/297-4979.

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 Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 14.50. The rule hearing is governed by Minnesota Statutes, section 14.01 to 14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9525.0900 to 9525.1020 establish procedures for implementing a statewide program of Semi-Independent Living Services (SILS) to assist county boards in reducing the utilization of intermediate care facilities for persons with mental retardation. Parts 9525.0900 to 9525.1020 govern the awarding and administration of grants by the commissioner of the Department of Human Services to county boards under Minnesota Statutes, section 252.275, for the provision of SILS to persons with mental retardation. Parts 9525.0900 to 9525.1020 do not govern SILS funded as a community social service under Minnesota Statutes, sections 256E.01 to 256E.12.

Parts included in the proposed rule parts are definitions; purpose and applicability; client eligibility criteria; approved provider; county board and provider contract and county board efforts to hire displaced state hospital staff; reimbursement standards; grant application and approval; state reimbursement of counties; fiscal and program reporting; grant increases and new awards; reduction, termination, and repayment of grants; review of commissioner's action; and penalty for noncompliance with applicable laws and rules.

Parts 9525.0900 to 9525.1020 are proposed as a permanent rule to replace 12 MCAR §§ 2.02001-2.02011 [Temporary], commonly known as Rule 20. The substance of the proposed permanent rule parts remains essentially the same as in the temporary rule parts, with three major exceptions. Client eligibility criteria no longer require a person with mental retardation to have a state or federal determination of disability as a condition of eligibility for SILS. Transportation time to and from service sites is allowable as a direct contact activity in the unit of service definition. Requirements for county board and provider contracts have been added to make the proposed permanent rule parts consistent with other permanent rules being proposed by the Department. Extensive revisions in numbering, language, and organization have been made, however, to increase clarity and facilitate ease of reference to the rule.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 252.275. The Department estimates that the cost to all local public bodies of implementing these rules will not exceed \$100,000 in either of the first two years following the rules' adoption.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Susan Canine, Department of Human Services, Mental Retardation Division, 4th Floor, Centennial Building, St. Paul, Minnesota 55155, telephone 612/297-1241.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mary Jo Verschay, Department of Human Services, Mental Retardation Division, 4th Floor, Centennial Building, St. Paul, Minnesota 55155, telephone 612/297-4979.

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

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and

argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

June 12, 1985

Leonard W. Levine, Commissioner
Department of Human Services

Rules as Proposed (all new material)

9525.0900 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 9525.0900 to 9525.1020 have the meanings given to them in this part.

Subp. 2. Administrative operating costs. "Administrative operating costs" has the meaning given it in 12 MCAR S 2.05313 [Temporary] C.

Subp. 3. Case management services. "Case management services" means identifying the need for, seeking out, acquiring, authorizing, and coordinating services to persons with mental retardation; and monitoring the delivery of the services to, and protecting the rights of, the persons with mental retardation. These services are provided by an individual designated by the county board under part 9525.0035 [Emergency].

Subp. 4. Case manager. "Case manager" means the individual designated by the county board under part 9525.0035 [Emergency] to provide case management services.

Subp. 5. Client. "Client" means a person who is receiving semi-independent living services under parts 9525.0900 to 9525.1020.

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

Subp. 7. County board. "County board" means the county board of commissioners for the county of financial responsibility or its designated representative.

Subp. 8. County of financial responsibility. "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256E.08, subdivision 7.

Subp. 9. Daily intervention. "Daily intervention" means supervision, assistance, or training provided each day to a person in the person's residence by a provider or family member to help the person manage daily activities.

Subp. 10. Department. "Department" means the Minnesota Department of Human Services.

Subp. 11. Host county. "Host county" means the county in which the services in a person's individual service plan are provided.

Subp. 12. Individual habilitation plan. "Individual habilitation plan" means the written plan for providing services to a person under part 9525.0105 [Emergency].

Subp. 13. Individual service plan. "Individual service plan" means the written plan for a person under part 9525.0085 [Emergency].

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PROPOSED RULES

Subp. 14. Interdisciplinary team. "Interdisciplinary team" means a team composed of the case manager, the person with mental retardation, the person's legal representative and advocate, if any, and representatives of all providers providing services set forth in the individual service plan.

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

Subp. 16. Local matching money. "Local matching money" means local money made available by a county board for the provision of semi-independent living services.

Subp. 17. Person with mental retardation. "Person with mental retardation" has the meaning given it in part 9525.0015 [Emergency], subpart 21.

Subp. 18. Provider. "Provider" means an individual, organization, or agency that provides semi-independent living services and that meets the requirements of parts 9525.0500 to 9525.0660 and 9525.0930. For the purpose of parts 9525.0900 to 9525.1020 a provider may be a county board that provides semi-independent living services directly or a contractor with a county board.

Subp. 19. Request for proposal. "Request for proposal" means a written statement disseminated by the county board to solicit proposals for the provision of semi-independent living services. The statement specifies the number and characteristics of clients to be served, the amount and type of services to be provided based upon the identified needs of the clients, the client outcomes to be expected, the criteria for provider selection, and the service cost or budget limitations.

Subp. 20. Semi-independent living services or SILS. "Semi-independent living services" or "SILS" means services that include training, counseling, instruction, supervision, and assistance provided in accordance with the client's individual habilitation plan for fewer than 24 hours per day. Services include assistance with budgeting, meal preparation, shopping, personal appearance, and related social support services needed to maintain and improve the client's level of functioning.

Subp. 21. Service site. "Service site" means the physical location or locations where a client or clients reside while receiving semi-independent living services.

Subp. 22. Unit of service. "Unit of service" means one hour of staff time spent on activities related to developing, implementing, coordinating, or evaluating a client's habilitation plan as limited in part 9525.0950, subpart 1.

9525.0910 PURPOSE AND APPLICABILITY.

Subpart 1. Purpose. The purpose of parts 9525.0900 to 9525.1020, as authorized by Minnesota Statutes, section 252.275, is to establish procedures for implementing a statewide program of semi-independent living services to assist county boards in reducing the utilization of intermediate care facilities for persons with mental retardation.

Subp. 2. Applicability. Parts 9525.0900 to 9525.1020 govern the awarding and administration of grants by the commissioner to county boards under Minnesota Statutes, section 252.275 for the provision of semi-independent living services to persons with mental retardation. Parts 9525.0900 to 9525.1020 do not govern semi-independent living services funded as a community social service under Minnesota Statutes, sections 256E.01 to 256E.12.

9525.0920 CLIENT ELIGIBILITY CRITERIA.

A county board may receive state reimbursement for providing semi-independent living services to a person with mental retardation who is 18 years of age or older and who meets the requirements in item A or B.

A. the person and his or her case manager have determined that the person would require daily intervention for more than 90 consecutive days if SILS were not provided; or

B. the person resides in an ICF/MR and the person and his or her case manager have determined that the person would remain in an ICF/MR if SILS were not provided.

9525.0930 APPROVED PROVIDER.

Subpart 1. Conditions of approval. A provider is approved to receive reimbursement from a county board for SILS provided under parts 9525.0900 to 9525.1020 if the provider has the license required in item A and meets the requirements of item B or C:

A. the provider has a current license to provide SILS in accordance with Minnesota Statutes, sections 252.28 and 245.781 to 245.812, and parts 9525.0500 to 9525.0660; and

B. the provider is in compliance with the requirement in subpart 2; or

C. the provider will achieve full compliance with subpart 2 by January 1, 1987, and the provider's plan for achieving compliance:

- (1) was submitted to the county board by January 1, 1985; and
- (2) was approved by the commissioner for a period not to exceed two years.

Subp. 2. Population and location of service sites. Services provided by the provider must meet the requirements in item A and item B or C:

- A. service sites where more than four clients are served must not be adjacent to or within a group residential facility licensed under parts 9525.0210 to 9525.0430 or another SILS service site where more than four clients are served. A group residential facility licensed under parts 9525.0210 to 9525.0430 must be considered a single service site; and
- B. no more than eight clients may be served per service site; or
- C. more than eight clients may be served per service site if fewer than 25 percent of the occupants of that service site building are receiving SILS.

Subp. 3. Variance from service site limitations. A county board may apply to the commissioner for a variance from compliance with subparts 1, item C, and 2 based upon the limited availability of housing for persons with mental retardation. The written application for the variance must show that the county's proposal for an alternative to full compliance:

- A. meets the individual needs of clients;
- B. ensures that services are provided in the least restrictive environment defined in part 9525.0015 [Emergency], subpart 18; and
- C. avoids the high concentration of persons with mental retardation within any service site, town, municipality, or county of the state in accordance with Minnesota Statutes, sections 462.357, subdivisions 6a, 7, and 8 and 245.812.

Subp. 4. Granting a variance. The commissioner shall grant the county board's variance request if the commissioner determines that:

- A. the request was submitted in accordance with subpart 3;
- B. the county board has provided reasonable evidence of the need for a variance based upon limited availability of housing for persons with mental retardation; and
- C. the request is in compliance with Minnesota statutes and rules governing services for persons with mental retardation.

Subp. 5. Denial of variance. The commissioner shall deny the county board's variance request if the commissioner determines that the variance request does not meet the requirements in subpart 4.

Subp. 6. Notice. The commissioner shall review the county board's request for a variance and notify the county board, in writing, within 30 days whether the request for variance has been granted or denied. If the variance request is denied, the notice must state the reasons why the variance request was denied and inform the county board of its right to request a review of the commissioner's decision. The procedure for requesting a review of the denial of a request for variance must be the same as the procedure in part 9525.1010.

Subp. 7. Continuation of variance. A county that has been granted a variance from compliance with subparts 1, item C, and 2 shall apply to the commissioner for a continuation of variance every two years if compliance has not been achieved. A county may submit the request for continuation of variance with the county's recommendations that are submitted to the commissioner in accordance with the biennial redetermination of need required by part 9525.0135 [Emergency], subpart 7. The procedures for requesting, granting, or denying a continuation of variance must be the same as the procedures in subparts 3, 4, and 5. The procedure for notifying the county board whether the continuation has been granted or denied must be the same as the procedure in subpart 6.

9525.0940 COUNTY BOARD AND PROVIDER CONTRACT AND COUNTY BOARD EFFORTS TO HIRE DISPLACED STATE HOSPITAL STAFF.

Subpart 1. Written contract. In order to receive reimbursement for the cost of SILS provided under parts 9525.0900 to 9525.1020, an approved provider must have a written contract with the host county that meets the requirements in this part.

Subp. 2. Contract requirements. The written contract must include the provisions and assurances specified in items A to O:

- A. the procedures the county board will follow to monitor the provider's compliance with part 9525.0930 governing licensure and service site requirements;

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PROPOSED RULES

- B. the beginning and ending dates of the contract;
- C. the grounds for termination of the contract;
- D. a statement indicating which party to the contract is responsible for making a preliminary determination of client eligibility in accordance with the criteria in part 9525.0920;
- E. the rate the provider will charge per unit of service and the number and types of units of service to be provided;
- F. the provider's budget, including administrative operating costs and any allocated central office costs, for providing the services specified in the contract;
- G. the site or sites where the services will be provided;
- H. agreement to provide SILS in accordance with each client's individual service plan and, if applicable, with each client's individual habilitation plan;
- I. the procedures the provider will follow to meet the reporting and record maintenance requirements of parts 9525.0900 to 9525.1020 and an itemized list and retention schedule of program and fiscal records to be maintained;
- J. stipulation that the county board may request, copy, and review program and fiscal records which the provider is required to maintain under parts 9525.0900 to 9525.1020;
- K. the procedures the county board will follow to monitor and evaluate the provider's performance under the contract;
- L. the procedures the county board will follow to reimburse the provider;
- M. agreement to comply with the Minnesota Government Data Practices Act, including identification of the person responsible for compliance in accordance with Minnesota Statutes, section 13.46, subdivision 10, clause (d);
- N. agreements governing the provider's responsibilities related to bonding, indemnity, insurance, and audits; and
- O. agreement that the provider shall:

(1) send all announcements or advertisements of employment opportunities offered by the provider to the personnel department of the host county's designated state hospital for persons with mental retardation; and

(2) make other reasonable efforts, as mandated by Minnesota Statutes, section 252.275, to hire qualified employees of state hospital mental retardation units who have been displaced by reorganization, closure, or consolidation of state hospital mental retardation units.

Subp. 2. County board efforts to hire displaced state hospital staff. The county board shall:

A. send requests for proposals for the provision of SILS to the county's designated state hospital for persons with mental retardation at the same time the request is sent to other providers; and

B. make other reasonable efforts, as mandated by Minnesota Statutes, section 252.275, to hire qualified employees of state hospital mental retardation units who have been displaced by reorganization, closure, or consolidation of state hospital mental retardation units.

9525.0950 REIMBURSEMENT STANDARDS.

Subpart 1. Limits on unit of service activities. Activities for which staff time may be charged in determining a unit of service as defined in part 9525.0900, subpart 21 are limited to:

A. Direct contact activities involving contact with the client, either face-to-face or over the phone, which facilitates the client's attainment of individual service plan goals and objectives. Direct contact activities include the staff member's transportation time to and from service sites.

B. Collateral activities involving direct verbal or written contact with professionals or others regarding the client which facilitates the client's attainment of individual service plan goals and objectives.

C. Individual habilitation planning activities, including attending the client's interdisciplinary team meetings, assessing the client's functioning levels, developing and reviewing the client's quarterly and annual habilitation plans, and charting and reporting the client's progress toward individual service plan goals and objectives.

Subp. 2. Reimbursable costs. Costs of providing semi-independent living services for which a county board may be reimbursed by the state under parts 9525.0900 to 9525.1020 are costs of those services directed at maintaining and improving a client's functioning level. Services for which costs are reimbursable include supervision, assistance, counseling, or training in the areas listed in items A to L:

- A. meal planning and preparation;
- B. shopping;

- C. first-aid training;
- D. money management and budgeting;
- E. self administration of medications;
- F. use of the telephone and other public utilities;
- G. personal appearance and hygiene;
- H. apartment or home maintenance and upkeep;
- I. use of community emergency resources;
- J. rights and responsibilities of community living;
- K. social, recreational, and transportation usage skills; and
- L. appropriate social behaviors.

Subp. 3. Authorization for services. Costs of providing semi-independent living services are reimbursable only when the services provided have been authorized by the county board. The authorization must indicate the amount, types and cost of SILS to be provided, and the expected client outcome or outcomes.

Subp. 4. Unapproved providers. Costs of semi-independent living services delivered by a provider who does not meet the provisions of part 9525.0930 must not be reimbursed under parts 9525.0900 to 9525.1020.

Subp. 5. Services to persons in an ICF/MR. Costs of semi-independent living services provided to a person with mental retardation while he or she resides in an ICF/MR must be reimbursed only when the amount of service provided while the person resides in an ICF/MR does not exceed a total of 20 hours and when the services provided result in the person's moving directly from the ICF/MR into a semi-independent living arrangement.

Subp. 6. Relationship of SILS to day programs and employment activities. Costs of semi-independent living services provided on a schedule that precludes the client from participation in the day programs or employment activities specified in the client's individual service plan, or provided as a substitute for the specified day programs or employment activities, must not be reimbursed. This subpart does not prohibit reimbursement for SILS provided during the day to clients who are working on a part-time basis or seeking employment if SILS participation does not preclude the client's part-time work or employment seeking.

Subp. 7. No reimbursement for case management services costs and administrative costs. Case management services costs and administrative costs incurred by counties or by SILS providers under contract with counties are not reimbursable as costs of semi-independent living services. When the county board provides SILS directly, the county must be reimbursed for costs of services provided according to the units of service defined in part 9525.0900. SILS provided by the county case manager assigned to the client must not be reimbursed under parts 9525.0900 to 9525.1020.

Subp. 8. No reimbursement for room and board. Expenditures for room and board are not reimbursable as costs of semi-independent living services. Room and board expenses are all directly identifiable costs of:

- A. normal and special diet food preparation and service;
- B. linen, bedding, laundering, and laundry supplies;
- C. housekeeping, including cleaning and lavatory supplies;
- D. maintenance and operation of the building and grounds, including fuel, electricity, water, and supplies, parts, and tools to repair and maintain equipment and facilities; and
- E. allocation of salaries and other costs related to these areas.

Subp. 9. SILS cost allocations. Providers that provide both SILS and ICF/MR services must show SILS cost allocations according to the cost category allocation principles and procedures in 12 MCAR S 2.05312 [Temporary] A. and B. The costs in items A and B in this subpart are not reimbursable as costs of SILS:

- A. costs specified as nonallowable costs in 12 MCAR SS 2.05301-2.05315 [Temporary]; and
- B. costs not specifically identified as reimbursable costs of SILS in parts 9525.0900 to 9525.1020.

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PROPOSED RULES

9525.0960 GRANT APPLICATION AND APPROVAL.

Subpart 1. Application forms and deadlines. The commissioner shall notify county boards of application deadlines and provide application forms for grants funded under Minnesota Statutes, section 252.275.

Subp. 2. Grant proposals. In order to qualify for a grant funded under Minnesota Statutes, section 252.275 a county board shall submit one completed copy of the county's annual SILS proposal to the commissioner with its grant application. A county board may submit its SILS proposal as part of its community social service plan. To be considered for funding, the SILS proposal submitted as part of the grant application must:

A. describe the proposed SILS to be provided or changes in the SILS proposal from the previous year to be made under the grant;

B. state measurable goals and objectives to be accomplished by providing the proposed SILS or by making the proposed changes in the SILS proposal from the previous year;

C. specify the projected annual service cost, the SILS provider, the living arrangement, day occupation, projected number of service hours, hourly rate, and public assistance eligibility for each client to be served; and

D. include a budget for the state's fiscal year showing projected county income from all sources and projected total expenditures for the proposed SILS and explain the methods used by the county board to project expenditures.

Subp. 3. Review of proposals submitted with grant applications. The commissioner shall evaluate the SILS proposals submitted with applications for grants awarded under parts 9525.0900 to 9525.1020 for approval. Priority for funding shall be given to current SILS clients who continue to need and to be eligible for SILS during the grant period for which application is made. The criteria in items A to C must be used in evaluating the proposals.

A. The extent to which the proposed SILS reduce or limit the county board's utilization of ICF/MRs as mandated by Minnesota Statutes, section 252.275.

B. The extent to which the proposed SILS budget is based on reasonable cost projections. A reasonable cost increase is an increase which does not exceed the projected change in the average value of the consumer price index (all urban) for the grant period. The consumer price index is incorporated by reference. The consumer price index is available through the Bureau of Labor Statistics Hotline, and is subject to frequent change. The local hotline number is (612)725-7865; the regional number is (312)353-1880.

C. The extent to which the proposal assures full compliance with parts 9525.0900 to 9525.1020.

Subp. 4. Approval of grant applications. The commissioner shall approve a grant application if the SILS proposal adheres to the criteria in subpart 3 and the proposal complies with Minnesota Statutes, section 252.275, subdivision 4, and parts 9525.0900 to 9525.1020. The commissioner may adjust a proposal as necessary to ensure that the proposal and the proposal budget as approved:

A. comply with Minnesota Statutes, section 252.275, subdivision 4 and parts 9525.0900 to 9525.1020; and

B. are within appropriations for the SILS grants program funded under Minnesota Statutes, section 252.275.

Subp. 5. Notice. The commissioner shall give written notice of the results of the grant award determination to each county board that applies.

9525.0970 STATE REIMBURSEMENT OF COUNTIES.

Subpart 1. Reimbursement amounts. State reimbursement payment to a county board must be made according to the schedule in subpart 4 and must be based on actual expenditures for providing SILS to eligible clients and the rate of state reimbursement which the commissioner has determined to be in effect for the grant period during which reimbursement is made. The amount of state reimbursement to a county board may not exceed the amount of the state grant award made to the county board for the grant period.

Subp. 2. Rate of state reimbursement. State reimbursement must not be more than 95 percent or less than 80 percent of a county board's cost of providing SILS as mandated by Minnesota Statutes, section 252.275, subdivision 4 and parts 9525.0900 to 9525.1020. Within the range set by statute, the commissioner shall determine the actual rate of reimbursement in effect for a given grant period by prorating the total SILS expenditures projected by county boards in SILS proposals and budgets approved by the commissioner against the total amount of state funding appropriated for SILS during the grant period.

Subp. 3. Application of other income. If a county board or a provider receives any income other than county money as reimbursement for SILS costs that are also reimbursable through local matching money or state funds provided under Minnesota Statutes, section 252.275, the income must be applied first to the local share to reduce the local matching money provided that the costs are reimbursable under part 9525.0950. If the income exceeds the local share of the service costs approved in the county's SILS grant application, the commissioner shall reduce the state grant payment by the amount that the income exceeds the local share.

Subp. 4. Payments to counties. Payments made to county boards by the commissioner must be in the form of an advance

payment, with subsequent quarterly payments to each county board contingent upon the board's submitting a completed quarterly financial report on forms provided and within timelines determined by the commissioner.

Subp. 5. Quarterly payment adjustments. If actual expenditures by a county board and the providers under contract with the county board to provide SILS are less than projected in the county board's approved budget, the commissioner shall adjust the quarterly payments so that the percentage of cost paid by the state remains within the limits in subparts 1 and 2.

9525.0980 FISCAL AND PROGRAM REPORTING.

Subpart 1. Records documenting compliance. The county board, and the providers under contract with the county board to provide SILS, shall maintain records to document compliance with parts 9525.0900 to 9525.1020, including compliance with the applicable laws and rules in part 9525.1020, and adherence to the goals and objectives in the SILS proposal approved with the grant application.

Subp. 2. Reports. The county board shall use forms provided by the commissioner to report the use of funds under Minnesota Statutes, section 252.275 for the previous grant period. The reports required are quarterly fiscal reports to ensure tracking of state expenditure for SILS and quarterly and annual program reports describing the types of clients served and the amount and types of services provided. County boards shall submit quarterly fiscal and program reports within 20 days of the end of the quarter and annual program reports within 20 days of the end of the grant year. A county board may include these reports in its annual reports for community social services.

Subp. 3. Financial records. The financial records maintained by the county board and by providers under contract with the county board to provide SILS must:

- A. use generally accepted accounting principles;
- B. identify all sources and amounts of income;
- C. document all expenditures;
- D. compare expenditures to the approved budget; and
- E. allow the verification of indirect costs allocated to SILS by the provider.

Subp. 4. Audits. The county board and the providers under contract with the county board to provide SILS shall make available for audit inspection all records required by parts 9525.0900 to 9525.1020 upon request by the commissioner.

Subp. 5. Retention of records. Unless an audit in process requires a longer retention period, the county board and the providers under contract with the county board to provide SILS shall retain a copy of the following records for at least four years:

- A. the annual program report and the quarterly fiscal reports required in part 9525.0980, subpart 2;
- B. records of all payments made and all income received; and
- C. all other records required in parts 9525.0900 to 9525.1020.

9525.0990 GRANT INCREASES AND NEW AWARDS.

Subpart 1. Grant increases. The commissioner may increase the amount of a grant awarded to a county board for SILS when:

- A. it has been determined that unused grant money is available as a result of a termination, reduction, or repayment action under part 9525.1000;
- B. the grant increase is within the limits established under Minnesota Statutes, section 252.275, subdivision 4; and
- C. the county board's expenditures for SILS that qualify for reimbursement exceeded the county board's budget projections.

Subp. 2. New grants. The commissioner may make new grant awards for grant proposals approved for funding under Minnesota Statutes, section 252.275 and parts 9525.0900 to 9525.1020 from unused funds that become available under parts 9525.0970 and 9525.1000.

9525.1000 REDUCTION, TERMINATION, AND REPAYMENT OF GRANTS.

Subpart 1. Excess funds. If the commissioner determines, in consultation with a county board, that the total grant awarded to that county will not be needed during the grant period, the commissioner shall reduce the grant award by the amount determined not to be needed.

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PROPOSED RULES

Subp. 2. Improper use of funds. If the commissioner determines that funds allocated to a county board under a grant are not being used in accordance with the SILS proposal and SILS budget submitted with the grant application and approved by the commissioner or with parts 9525.0900 to 9525.1020, all or part of the grant must be terminated. The commissioner shall require repayment of any funds not used in accordance with the SILS proposal and SILS budget approved by the commissioner or with parts 9525.0900 to 9525.1020.

Subp. 3. Notification. Before the commissioner reduces, terminates, or requires repayment of grant funds under subpart 1 or 2, the commissioner shall give 30 days' written notice to the county board and send a copy of the written notice to affected providers. The written notice must inform the county board of its right to request a review of the commissioner's action under part 9525.1010.

9525.1010 REVIEW OF COMMISSIONER'S ACTION.

A request for a review of the commissioner's proposed action under part 9525.1000 shall be submitted by the county board to the commissioner within 30 days of the date the county receives notification from the commissioner. The request must state the reasons why the county board disagrees with the commissioner's action and present evidence supporting the county board's case for reconsideration by the commissioner. The commissioner shall review the evidence presented in the county board's request and send written notification to the county board regarding the commissioner's decision. The commissioner's decision after a review shall be final. The commissioner shall not take the proposed action until a final review is completed and written notification issued by the commissioner.

9525.1020 PENALTY FOR NONCOMPLIANCE WITH APPLICABLE LAWS AND RULES.

If a county board and a provider under contract with the county board to provide SILS do not comply with parts 9525.0900 to 9525.1020 and with other applicable laws and rules, the commissioner shall suspend or withhold payments or require repayment under part 9525.1000. The procedure for requesting a review of the commissioner's action under this part must be the same as the procedure in part 9525.1010. Other applicable laws and rules include items A to E:

- A. Minnesota Statutes, section 245.825 and rules adopted under that section that govern the use of aversive and deprivation procedures;
- B. Minnesota Government Data Practices Act, Minnesota Statutes, sections 13.01 to 13.57;
- C. Minnesota Statutes, sections 626.556 to 626.557 and rules adopted under those sections that govern reporting of maltreatment of minors and vulnerable adults;
- D. Minnesota Statutes, chapter 363, Minnesota Human Rights Act; and
- E. Minnesota Statutes section 252.275 that mandates reasonable efforts to hire qualified employees displaced by reorganization, closure, or consolidation of state hospital mental retardation units.

Department of Human Services

Proposed Rules Relating to Special Needs Rate Exception for Very Dependent Persons with Special Needs

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Conference Room, 500 Rice Street, St. Paul, Minnesota 55155 on August 13, 1985 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 8 and August 12, 1985 at 612/297-4980.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon Lunde, Administrative Law Judge, Office of Administrative Hearings.

400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record to be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 14.50. The rule hearing is governed by Minnesota Statutes, section 14.01 to 14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9510.1020 to 9510.1140 establish procedures for counties to follow to seek authorization from the commissioner for special needs rate exception payments for eligible clients who reside in Intermediate Care Facilities for the Mentally Retarded (ICFs/MR). The purpose of the special needs rate exception is to reimburse the costs of equipment, temporary staff intervention, consultation, or training services that are not included in the per diem rate of the ICF/MR and/or training and habilitation service. The special needs rate exception is intended to facilitate a client's transition to community living in order to prevent the placement or retention of the client in a state hospital.

Parts included in the proposed rule parts are definitions; applicability and purpose; application to be completed by provider; county review of provider's application including client eligibility, general provider eligibility, availability of other resources and evaluation of staff intervention and equipment purchases; county approval process; county's application to commissioner; commissioner's determination; establishing special needs rate exception payment; variance request; emergency procedure; duration of special needs rate exception; records, reports, audits and repayment; and appeals.

Parts 9510.1020 to 9510.1140 are proposed as permanent rule parts to replace parts 9510.1020 to 9510.1140 [Emergency], commonly known as Rule 186. The substance of the proposed permanent rule parts remains essentially the same as in the emergency rule parts.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256B.501, subdivisions 8 and 10. The Department estimates that the cost to all local public bodies of implementing these rules will not exceed \$100,000 in either of the first two years following the rules' adoption.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Susan Canine, Department of Human Services, Mental Retardation Division, 4th Floor, Centennial Building, St. Paul, Minnesota 55155; telephone 612/297-1241.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Lisa Rotegard, Department of Human Services, Mental Retardation Division, 4th Floor, Centennial Building, St. Paul, Minnesota 55155; telephone 612/297-4980.

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

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

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

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PROPOSED RULES

than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than \$250, not including 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. 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.

June 18, 1985

Leonard W. Levine, Commissioner
Department of Human Services

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-Five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-mentioned rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 256B.501, subdivisions 8 and 10.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON AUGUST 13, 1985 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services before August 13, 1985 at (612) 297-4980.

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

Lisa Rotegard
Department of Human Services
Mental Retardation Division
4th Floor Centennial Office Building
St. Paul, MN 55115
Telephone 612/297-4980

All comments or requests for hearing must be received by the Department by 4:30 p.m. on August 7, 1985.

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

Minnesota Rules, parts 9510.1020 to 9510.1140 establish procedures for counties to follow to seek authorization from the commissioner for special needs rate exception payments for eligible clients who reside in Intermediate Care Facilities for the Mentally Retarded (ICF/MR). The purpose of the special needs rate exception is to reimburse the costs of equipment, not included in the per diem rate of the ICF/MR and/or training and habilitation service. The special needs rate exception is intended to facilitate a client's transition to community living in order to prevent the placement or retention of the client in a state hospital.

Parts included in the proposed rule parts are definitions; applicability and purpose; application to be completed by provider; county review of provider's application including client eligibility, general provider eligibility, availability of other resources and evaluation of staff intervention and equipment purchases; county approval process; county's application to commissioner; commissioner's determination; establishing special needs rate exception payment; variance request; emergency procedure; duration of special needs rate exception; records, reports, audits and repayment; and appeals.

Parts 9510.1020 to 9510.1140 are proposed as permanent rule to replace parts 9510.1020 to 9510.1140 [Emergency], commonly

known as rule 186. The substance of the proposed permanent rule parts remains essentially the same as in the emergency rule parts.

A copy of the rule is available upon request for your review from:

Susan Canine
Department of Human Services
Mental Retardation Division
4th Floor Centennial Office Building
St. Paul, MN 55155
Telephone 612/297-1241

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Lisa Rotegard upon request.

The Department estimates that the cost to all local public bodies of implementing these rules will not exceed \$100,000 in either of the first two years following the adoption of parts 9510.1020 to 9510.1140.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the data of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Lisa Rotegard.

June 18, 1985

Leonard W. Levine
Commissioner of Human Services

Rules as Proposed (all new material)

9510.1020 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 9510.1020 to 9510.1140 have the meanings given them in this part.

Subp. 2. Case manager. "Case manager" has the meaning given it in part 9525.0015 [Emergency], subpart 5.

Subp. 3. Client. "Client" means a person who is receiving training and habilitation services or intermediate care facility for the mentally retarded services funded under the medical assistance program.

Subp. 4. Commissioner. "Commissioner" means the commissioner of the Department of Human Services or a designated representative.

Subp. 5. County. "County" means the county board of commissioners for the county which provides case management services to the client or the county board of commissioners' designated representative.

Subp. 6. Degenerative disease. "Degenerative disease" means a category of neurological impairment such as Hurler's syndrome, tuberous sclerosis, Alzheimer's disease, or Huntington's chorea with a disorganization of motor function or chronic brain syndrome.

Subp. 7. Employee benefits. "Employee benefits" means compensation actually paid to or for the benefit of the employees other than salary. Employee benefits include group health or dental insurance, group life insurance, pensions or profit sharing plans, governmentally-required retirement plans, sick leave, vacations, and in-kind benefits. Employee benefits do not include payroll-related costs.

Subp. 8. Equipment. "Equipment" means aids designed to increase a client's ability to live and function independently which are purchased for the client, remain the property of the client and can be moved with the client upon discharge.

Subp. 9. Intermediate care facility for the mentally retarded or ICF/MR. "Intermediate care facility for the mentally retarded" or "ICF/MR" means a program licensed to serve mentally retarded residents under Minnesota Statutes, section 252.28, and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which together are certified by the Minnesota Department of Health as an intermediate care facility for the mentally retarded.

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PROPOSED RULES

Subp. 10. Medical review team. "Medical review team" means a group of physicians and social workers who are under contract with the Department of Human Services to review a medical and social history for the purpose of determining a person's disability within the scope of the regulations of the Social Security Administration.

Subp. 11. Provider. "Provider" means the person or entity operating a licensed training and habilitation service or an ICF/MR.

Subp. 12. Payroll-related costs. "Payroll-related costs" means the employer's share of social security withholding taxes, workers' compensation insurance or actual cost if self insured, and state and federal unemployment compensation taxes or costs.

Subp. 13. Special needs rate exception payment. "Special needs rate exception payment" means a payment established under parts 9510.1020 to 9510.1140.

Subp. 14. Staff intervention. "Staff intervention" means the direct client care provided by program personnel or outside program consultants, or the training of direct care program personnel by outside program consultants for the purpose of addressing the client's needs as identified in the special needs rate exception application.

Subp. 15. State hospital. "State hospital" means an ICF/MR or nursing home owned and operated by the state of Minnesota.

Subp. 16. Training and habilitation services. "Training and habilitation services" means health and social services provided under Minnesota Statutes, sections 252.21 to 252.261 and 256B.501. "Training and habilitation services" does not include waived services as defined in Minnesota Statutes, section 256B.501, subdivision 1.

9510.1030 APPLICABILITY AND PURPOSE.

Subpart 1. Applicability. Parts 9510.1020 to 9510.1140 establish procedures for counties and providers to follow to seek authorization for a special needs rate exception for very dependent persons with special needs and establish procedures for determining the special needs rate exception payments for training and habilitation services and for intermediate care facilities for the mentally retarded. Parts 9510.1020 to 9510.1140 do not apply to persons with mental retardation who reside in a state hospital.

Subp. 2. Purpose. The purpose of the special needs rate exception is to provide to a specific client those staff interventions or equipment whose costs are not included in the per diem rate of the intermediate care facility for the mentally retarded or the per diem rate of the training and habilitation service. The special needs rate exception payment is intended to fund short-term special needs for a specific client in order to prevent the placement or retention of the client in a state hospital. The special needs rate exception is only to be allowed after all other funding sources or alternatives have been exhausted.

9510.1040 APPLICATION TO BE COMPLETED BY PROVIDER.

Subpart 1. Application. The provider shall apply to the county for a special needs rate exception to cover the cost of a staff intervention or piece of equipment necessary to serve clients eligible under part 9510.1050, subpart 2. A separate application must be completed for each client unless the staff intervention or equipment is shared by the clients identified. If more than one client is included in the application, client information must be submitted for each client. The application must include the information in subparts 2 to 4.

Subp. 2. Information about client's needs and methods used to address needs. The provider shall:

- A. identify the client including:
 - (1) name;
 - (2) name and address of the client's legal representative;
 - (3) medical assistance identification number;
 - (4) date of admission or anticipated admission to the provider's program;
 - (5) diagnosis;
 - (6) age;
 - (7) current residence; and
 - (8) current day program;
- B. describe the client's special need or needs which put the client at risk of state hospital placement or continued state hospital placement;
- C. describe the proposed staff intervention including:
 - (1) the amount of staff or consultant time required;
 - (2) qualifications of the program staff or outside consultants providing the intervention;
 - (3) type of intervention;
 - (4) frequency of intervention;

- (5) intensity of intervention; and
- (6) duration of intervention;

D. describe the equipment needed and the plan for use of the equipment by the client;

E. identify the total cost and the unit cost of the equipment or the staff intervention;

F. describe the modifications needed to integrate the equipment and staff intervention into the client's individual program plan;

G. describe the projected behavioral outcomes of the staff intervention or the use of the equipment and when the outcomes will be achieved;

H. describe how the client's progress toward the behavioral outcomes in item G will be measured and monitored by the provider; and

I. describe the degree of family involvement with the client.

Subp. 3. Information about provider. The provider shall submit:

A. information identifying the provider including:

(1) name and address of the provider;

(2) name and address of the place where the staff intervention and equipment will be delivered, if different from subitem (1);

(3) name and telephone number of the person authorized to answer questions about the application; and

(4) medical assistance provider number; and

B. an explanation of the efforts used to meet the client's needs within the provider's current per diem rate, including:

(1) modifications made to the individual program plan;

(2) reallocation of current program personnel;

(3) use of any operating cost incentives or allowances received by the provider under parts 9510.0500 to 9510.0890 or 12 MCAR SS 2.05301 to 2.05315 [Temporary];

(4) training and inservice provided to program personnel for the year immediately preceding the date of the provider's application to the county; and

(5) other available resources used.

Subp. 4. Supporting documentation. The provider shall submit with the application the following:

A. A copy of the individual program plan including the measurable behavioral outcomes which are anticipated to be achieved by the client as a result of the proposed staff intervention or the equipment.

B. For an ICF/MR, a copy of the most recent facility profile as prepared by the quality assurance and review section of the Minnesota Department of Health. For a training and habilitation service program, a description of the physical condition, medical condition, and behavioral characteristics of the clients currently served by the program.

C. Documentation of the provider's historical costs on which the current per diem rate is based. An ICF/MR provider shall submit a copy of the cost report submitted under parts 9510.0500 to 9510.0890 or 12 MCAR SS 2.05301 to 2.05315 [Temporary] on which the current per diem rate is based and a copy of the most recent rate determination letter. A training and habilitation service program shall submit a copy of the translation worksheet required in 12 MCAR SS 2.0300-2.0304 [Temporary] and any adjustments made by the county or the commissioner.

D. Work papers showing the method used to determine the cost of the staff intervention and equipment identified in subpart 2, item E, including the hourly wage of staff who will implement the intervention, the unit cost of consultation or training services, and the unit cost of equipment requested.

E. Documentation that any equipment requested in the application is not available from the Department of Vocational Rehabilitation or covered under parts 9500.0750 to 9500.1080.

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PROPOSED RULES

F. Documentation that any consultant services requested in the application are not services covered under parts 9500.0750 to 9500.1080.

G. The name and address of any vendor or contractor to be reimbursed by the special needs rate exception and the name of the person or persons who will actually provide the equipment or services if known.

H. A plan to decrease the client's reliance on the proposed staff intervention.

9510.1050 COUNTY REVIEW OF PROVIDER'S APPLICATION.

Subpart 1. Criteria. The county shall determine if the provider submitting the application and the client or clients identified in the application meet the criteria in subparts 2 to 5. The county shall submit to the commissioner the applications which meet the criteria in subparts 2 to 5.

Subp. 2. Client eligibility. A client shall be eligible for a special needs rate exception if the client meets the criteria in items A to D:

A. the client is eligible for medical assistance under Minnesota Statutes, chapter 256B;

B. the client is a resident of an ICF/MR;

C. the client is a person with mental retardation according to the definition in part 9525.0015 [Emergency], subpart 21 or has related conditions defined in Code of Federal Regulations, title 42, section 435, and has at least one of the following characteristics:

(1) severe maladaptive behavior as listed in unit (a), (b), or (c):

(a) self-injurious behavior which is a clear danger to the client such as ingesting inedibles; removing major items of clothing; striking, biting, or scratching self; moving into dangerous situations which clearly threaten or endanger the client's life, sensory abilities, limb mobility, brain functioning, physical appearance, or other major physical functions; or

(b) aggressive behaviors which are a clear danger to others such as striking, scratching, or biting others; throwing heavy objects at others; attempting inappropriate sexual activity with others; or pushing or placing others into dangerous situations which clearly threaten or endanger their life, sensory abilities, limb mobility, brain functioning, sexual integrity, physical appearance, or other major physical functions; or

(c) destructive behaviors which result in extensive property damage;

(2) severe physical disabilities such as deafness, blindness, or motor problems which require short-term environmental orientation training;

(3) medical conditions as listed in unit (a) or (b):

(a) degenerative diseases diagnosed by a physician as terminal; or

(b) short-term medical disabilities that can be treated within the level of care the Minnesota Department of Health certifies the ICF/MR to provide, such as temporary immobility, intermittent catheterization, or post-operative recuperation;

D. the client is at risk of placement in a state hospital within 60 days or of remaining in a state hospital, unless additional resources are provided through parts 9510.1020 to 9510.1140 due to:

(1) conditions and characteristics described in item C; and

(2) the unavailability of other resources as determined under subpart 4.

Subp. 3. General provider eligibility. A provider shall be eligible for a special needs rate exception if the provider meets the following criteria:

A. The existing program or services offered by the provider cannot be modified to meet the client's needs within the provider's approved per diem rates, including any operating cost incentives or allowances as defined in 12 MCAR SS 2.05301 to 2.05315 [Temporary] or parts 9510.0500 to 9510.0890. Amounts deposited in a funded depreciation account under 12 MCAR S 2.05304 [Temporary] C. shall not be affected by this item.

B. The provider's historical cost per diem does not include the historical cost of providing the same or similar clients with the same or similar staff interventions.

C. The provider is willing to serve or continue to serve a client who is eligible for a special needs rate under subpart 2 if the special needs rate exception is approved.

Subp. 4. Availability of other resources. The provider shall be eligible for a special needs rate exception only if the county determines that:

A. There are no other existing resources or services covered under parts 9500.0750 to 9500.1080 available to meet the client's needs.

B. There are no other appropriate ICFs/MR, training and habilitation services, or other services located within a reasonable distance available to meet the person's needs within their current rates. To determine if another ICF/MR, training and habilitation service, or other service is appropriate for the client, the case manager shall:

(1) Consider the placement preferences of the client and family of the client. If the client cannot communicate a preference, the client's legal representative must be consulted.

(2) Consider whether the location of the alternative ICF/MR training and habilitation service or other service will impair the current level of family involvement.

(3) Consider the length of time that the client will need the additional services.

Subp. 5. Evaluation of staff intervention and equipment purchases. The county shall review the information submitted in accordance with part 9510.1040 to determine if:

A. the proposed staff intervention and equipment are allowable for purposes of reimbursement under parts 9510.1020 to 9510.1140;

B. all proposed services and service providers comply with applicable professional and program licensure standards;

C. the proposed staff intervention and equipment purchases meet the identified client needs; and

D. the provider has included a plan to decrease the client's reliance on the proposed staff intervention which shall ensure integration of the client into the existing program when the special needs rate exception terminates.

9510.1060 COUNTY APPROVAL PROCESS.

Subpart 1. Time period. The county shall approve or deny applications within ten working days of the date the complete application was received from the provider. Approval or denial shall be made in accordance with subparts 2 to 4.

Subp. 2. Consultation with county of financial responsibility. If the county which receives the provider's application is not the county of financial responsibility, the county which receives the provider's application shall consult with the county of financial responsibility before approving the provider's application. The county of financial responsibility's statement of approval or objections must be forwarded to the commissioner with the provider's approved application or notice of denial. If the county of financial responsibility's statement of approval or objections are not forwarded to the commissioner, the county's application shall not be considered complete.

Subp. 3. County approval or denial. The county shall review the provider's application to determine if the application is complete and meets the criteria in 9510.1020 to 9510.1140. The county shall approve the provider's application if the application is complete and meets the criteria. The county shall deny the provider's application if the application is incomplete or does not meet the criteria unless the provider's application can be adjusted to meet the criteria or the county submits a written request for a variance under part 9510.1100.

Subp. 4. Notification. The county shall send the provider and the client written notice of the county's decision on the provider's application as soon as a decision is made or within ten working days after receipt of the application, whichever occurs first. If the county denies the provider's application, the county shall notify the commissioner, provider, client, and the client's legal representative of the reasons for the denial in writing. The notice of the denial must state the specific provisions of the provider's application on which the county based the denial.

9510.1070 COUNTY'S APPLICATION TO COMMISSIONER.

If the county approves the provider's application, the county shall apply to the commissioner for a special needs rate exception within ten working days of the date of receipt by the county from the provider of a complete application and supporting documentation. To apply for a special needs rate exception, the county shall submit to the commissioner a copy of the provider's approved application and supporting documentation and the following documents:

A. documentation of the steps taken by the county to determine client and provider eligibility in accordance with parts 9510.1020 to 9510.1140, including documentation of the conditions which put the client at risk of state hospital placement or continued state hospital placement;

B. a copy of the client's most recent individual service plan which states the decision to place or retain the eligible client in a state hospital if the requested services cannot be provided;

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PROPOSED RULES

C. a copy of the client's most recent annual individual program plan in the ICF/MR, individual program plan in the training and habilitation service, most recent medical evaluation signed by a physician, and most recent behavioral assessments, including any programs for aversive and deprivation procedures;

D. a copy of the client's state hospital discharge plan, if the special needs rate exception is requested to facilitate the client's discharge from a state hospital;

E. a copy of the client's screening document if one was completed within 60 days of the date the county received a complete application from the provider;

F. a copy of the county's plan to coordinate and monitor the implementation of the client's individual service plan;

G. a letter from the county of financial responsibility stating approval of the changes in the individual service plan if the county submitting the application is not the county of financial responsibility; or if the county of financial responsibility does not approve the changes, a letter stating the reasons the county of financial responsibility does not approve the changes and describing the actions, if any, to be taken by the county of financial responsibility; and

H. a description of the proposed services to be provided by the day training and habilitation service and the ICF/MR and how the services will be coordinated and monitored by the county and the providers. If the special needs rate exception is not requested for both the day training and habilitation service and the ICF/MR, a written explanation must be provided by the county.

9510.1080 COMMISSIONER'S DETERMINATION.

The commissioner shall review the county application to determine if the requirements in parts 9510.1020 to 9510.1140 are satisfied in determining whether to approve or deny an application for a special needs rate exception. The commissioner shall notify the county, provider, the client, and the client's legal representative of the decision within ten working days of the date the commissioner receives a completed application from the county. The special needs rate exception, if approved by the commissioner, must be effective as of the date the county submits a completed application to the commissioner. If the commissioner denies the application, the commissioner shall notify the county, provider, and client or client's representative in writing of the reasons for the denial.

9510.1090 ESTABLISHING SPECIAL NEEDS RATE EXCEPTION PAYMENT.

Subpart 1. Established by commissioner. The commissioner shall establish the special needs rate exception payment according to subparts 2 to 5.

Subp. 2. Allowable costs. Unless otherwise reimbursable by the Department of Vocational Rehabilitation or by direct payments under parts 9500.0750 to 9500.1080, the following costs, if approved by the commissioner in accordance with parts 9510.1020 to 9510.1140 and 12 MCAR S 2.05311 [Temporary] A., are allowable for purposes of establishing the special needs rate exception payment:

A. additional salary, employee benefits, and payroll-related costs for direct care staff required to meet the client's needs as identified in the provider's application;

B. additional costs of services provided by a licensed medical, therapeutic, or rehabilitation practitioner; a mental health practitioner supervised by a board-certified psychiatrist; or a licensed psychologist or licensed consulting psychologist;

C. the costs of equipment required to meet the client's needs as identified in the provider's application.

Subp. 3. Nonallowable costs. Only costs listed in subpart 2 are allowable for purposes of establishing the special needs rate exception. All other costs shall be disallowed.

Subp. 4. Limitation. The combined per diem costs of training and habilitation services, ICF/MR services, and the special needs rate exception payment and any other special needs rate exception payments in effect for the same client, shall not exceed the medical assistance per diem cost of providing services to mentally retarded persons in state hospitals. For the purpose of determining this limitation, items A to F apply.

A. The training and habilitation services per diem in effect on the date the provider's completed application is submitted to the county must be multiplied by the number of days the services are provided annually.

B. The ICF/MR's temporary or final payment rate in effect on the date the provider's completed application is submitted to the county must be multiplied by 365.

C. The special needs rate exception amount must not exceed the total allowable costs in subpart 2. If a special needs rate exception is necessary for a client in both the ICF/MR and the training and habilitation service program, the amounts of both special needs rate exceptions must be combined. If the client is currently receiving a special needs rate exception, that amount must also be included.

D. The amounts determined in items A to C must be combined and divided by 365 to determine the combined per diem cost.

E. The state hospital medical assistance per diem rate must be the rate in effect on the date the provider's completed application is submitted to the county.

F. If the per diem cost in item D exceeds the per diem cost in item E, the commissioner shall deny the special needs rate exception application unless the per diem cost can be adjusted to meet the client's needs within the per diem cost in item E or the commissioner grants a variance under part 9510.1100.

Subp. 5. Computation of special needs rate exception payment. The special needs rate exception payment must be calculated as follows:

A. The cost of additional equipment allowed in accordance with subpart 2, item C shall be paid as a lump sum payment during the first billing period following approval of the special needs rate exception.

B. Except as provided in item C, in order to compute the special needs rate exception payment for personnel costs, the costs of additional personnel allowable according to subpart 2, items A and B, must be divided by the estimated number of days the staff intervention will be needed.

C. In order to compute the special needs rate exception payment for personnel costs which vary during the estimated staff intervention period, the costs must be assigned on a monthly basis proportionate to the actual personnel costs incurred and then divided by the number of client days in the month.

D. Costs computed under items B and C shall be reimbursed as incurred and billed.

9510.1100 VARIANCE REQUEST.

Subpart 1. Variance request. The county may request a variance from the commissioner to approve a provider application which exceeds the limit in part 9510.1090, subpart 4 by up to 15 percent, if the provider meets the criteria in subpart 2.

Subp. 2. Eligible provider. A licensed provider of training and habilitation services may apply for a variance if the provider is not an ICF/MR and provides or plans to provide training and habilitation services to a client who resides in an ICF/MR which has a per diem rate equal to or greater than 85 percent of the medical assistance per diem cost of providing services to mentally retarded persons in the state hospitals.

Subp. 3. Submittal of request. The county shall submit the written variance request, including documentation showing that the provider meets the criteria for a variance, with the county's application for the special needs rate exception payment.

Subp. 4. Review of variance request; notification. The commissioner shall review the variance request with the county's application for the special needs rate exception payment. If the county's application meets all of the requirements in parts 9510.1020 to 9510.1140 except the limitation in part 9510.1090 subpart 4 and the provider is eligible to apply for a variance under subpart 2, the commissioner shall approve the request. If the commissioner denies the variance request, the commissioner shall notify the county, provider, client, and the client's legal representative within ten days of receipt of the variance request of the reasons for the denial.

9510.1110 EMERGENCY PROCEDURE.

Subpart 1. Definition. For the purposes of this part, an emergency is either:

A. a postoperative condition resulting from unplanned surgery or unanticipated complications resulting from planned surgery which would result in continued placement in a hospital or skilled nursing facility, loss of placement in a community ICF/MR, and admission to a state hospital within 60 days; or

B. the sudden onset of self-injurious or aggressive client behavior which results in an immediate danger to self or others; which would result in immediate admission to the state hospital in the absence of intervention.

Subp. 2. Emergency approval. In an emergency, the county may approve the addition of staff necessary to intervene in the emergency without obtaining prior approval of a special needs rate exception from the commissioner if the county determines that all other client and provider eligibility is met. Only staff costs shall be allowed under this part. No funds spent will be reimbursed, even in an emergency, without the county's approval. In an emergency, the county shall:

A. notify the commissioner by telephone no later than the next working day and in writing within three working days of the client's situation, and state in the notice a description of the behaviors or medical condition requiring emergency intervention and the actions taken by the provider to control the behaviors;

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PROPOSED RULES

B. require the provider to submit an application completed in accordance with parts 9510.1020 to 9510.1140 within ten working days; and

C. submit to the commissioner an application for a special needs rate exception completed and submitted in accordance with parts 9510.1020 to 9510.1140.

Subp. 3. Reimbursement for emergency services. A special needs rate exception for the costs identified in part 9510.1090, subpart 2, item A, for staff approved in accordance with subpart 2 shall be reimbursable for a period not to exceed two weeks from the date the county notifies the commissioner of the emergency. The provider shall submit an application to the county completed in accordance with parts 9510.1020 to 9510.1140, for continuation of the special needs rate exception for more than two weeks. The county shall notify the commissioner if the provider fails to submit the application required in subpart 2, item B, and the commissioner shall discontinue the emergency special needs rate exception payment.

9510.1120 DURATION OF SPECIAL NEEDS RATE EXCEPTION.

Subpart 1. Maximum length of time for a special needs rate exception. A special needs rate exception for a staff intervention must be limited to one approval per eligible client for a period of time not to exceed one year from the date of receipt of the county application by the commissioner except as provided in subpart 2.

Subp. 2. Renewals. If the county determines that a special needs rate exception should be continued after the period initially approved, the county shall submit a new application in accordance with parts 9510.1020 to 9510.1140 at least 30 days prior to the date the special needs rate exception is scheduled to terminate. The county application for a renewal must contain a program and fiscal evaluation demonstrating the effectiveness of the initial special needs rate exception. A special needs rate exception for a staff intervention must be limited to one renewal of one year or less per identified special need.

Subp. 3. Terminations. The commissioner may terminate the special needs rate exception prior to the date stated in the application upon recommendation by the county. The county may recommend termination if:

- A. the rate is no longer necessary because other funds are available;
- B. the rate is no longer necessary because a more appropriate residential or day training and habilitation placement is available;
- C. there is evidence that the funds have not been used for the purposes stated in the application;
- D. the client's needs have changed and can be met without the special needs rate exception; or
- E. no progress has been made in rectifying the identified problem area. This item shall not apply to services provided to clients with degenerative diseases if the criteria in subitems (1) to (4) are met:
 - (1) the service is required due to the degenerative disease;
 - (2) the client's physician has determined that no progress in the identified problem area can be expected;
 - (3) the county submitted the determination by the client's physician to the commissioner with the first quarterly program and fiscal review under part 9510.1130, subpart 2 and requested an exception to this item; and
 - (4) the county's request for an exception to this item has been reviewed by the state medical review team of the Department of Human Services and the state medical review team has verified that no progress in the identified problem area can be expected.

The commissioner shall notify the county and the provider 15 days before discontinuing payments due to termination.

9510.1130 RECORDS, REPORTS, AUDITS, AND REPAYMENT.

Subpart 1. Records. The provider shall maintain complete program and fiscal records and supporting documentation identifying the services and costs provided under the special needs rate exception. The costs must be maintained in well-organized files and identified in accounts separate from other facility or program costs. Costs authorized and approved under these parts do not become part of a provider's historic cost base for the purpose of setting rates under 12 MCAR SS 2.05301 to 2.05315 [Temporary] or parts 9525.1200 to 9525.1330. The provider's records shall be kept for five years and be subject to the maintenance schedule, audit availability requirements, and other provisions of parts 9505.1750 to 9505.2150.

Subp. 2. Reports. The county shall submit items A and B to the commissioner.

A. A quarterly program and fiscal review of the overall effectiveness of the services to be provided under the special needs allowance unless the commissioner determines that a different schedule of reviews is needed to evaluate the success of the program or redetermine the special needs rate exception payment. The review must be submitted no more than 30 days after the end of each quarter in which a special needs rate exception is in place and must include:

- (1) the provider's compliance with the application;

(2) the client's progress in attaining the measurable behavioral outcomes in the individual program plan for which the special needs rate exception was requested:

(3) the county and provider's plans to reduce reliance on the special needs rate exception; and

(4) changes implemented in the type, frequency, or intensity of the staff intervention approved under parts 9510.1080 and 9510.1090.

B. A final report submitted within 90 days of termination of a special needs rate exception which documents the following:

(1) the extent to which the program goals identified in the special needs rate exception application were accomplished;

(2) the total amount of money paid to the provider through the special needs rate exception payment for equipment and actual costs and types of equipment purchased;

(3) the amount of expenditures incurred by the provider for costs allowable under part 9510.1090 [Emergency], subpart 2; and

(4) the total amount of unexpended funds determined by subtracting subitem (3) from subitem (2).

Subp. 3. Audits. The commissioner may conduct program and fiscal audits of any provider receiving a special needs rate exception to identify any overpayments made to the provider and ensure compliance with parts 9510.1020 to 9510.1140 [Emergency].

Subp. 4. Repayment. Any overpayments to the provider included in the special needs rate exception payment must be paid back to the medical assistance program within 60 days of the date the provider receives the notice of overpayment from the county or the commissioner. No retroactive payment must be made if the provider's costs exceed the special needs rate exception payment.

9510.1140 APPEALS.

Subpart 1. By provider. A provider whose application for a special needs rate exception is denied or not acted on within the deadlines in part 9510.1060, subpart 1, or whose special needs rate exception is suspended, reduced, or terminated by the county may appeal the action or decision to the commissioner. The appeal must be submitted to the commissioner in writing within 30 days of the date the provider received notification or should have received notification of the action or decision. The appeal must state the reasons the provider is appealing the county's action or decision including the bases for the county's action or decision which are disputed, the specific sections of the provider's application which the provider is relying on for the appeal, and an explanation of why the provider disagrees with the county's action or decision.

The commissioner shall review the application and supporting documentation submitted to the county and any additional documents submitted with the appeal to determine if the provider can prove by a preponderance of evidence that it is eligible for a special needs rate exception and in compliance with parts 9510.1020 to 9510.1140. Within 30 days of receipt of the provider's appeal, the commissioner shall notify the provider of the commissioner's decision. No special needs rate exception payment will be made pending the outcome of the appeal.

Subp. 2. By county. If the county disagrees with the commissioner's decision on the county application, the county may appeal the decision to the commissioner and request reconsideration. To be reconsidered, the appeal must be filed in writing, with the commissioner, within ten days of the date the commissioner gave notice to the county of the decision on the county application. The appeal must state the reasons why the county is appealing the commissioner's decision and present evidence explaining why the county disagrees with the commissioner's decision. Within 30 days of receipt of the county's appeal, the commissioner shall review the evidence presented in the county's appeal and send written notification to the county of the commissioner's decision on the appeal. No special needs rate exception payment shall be made pending the outcome of the appeal. The commissioner's decision on the appeal shall be final.

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ADOPTED RULES

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

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

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

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

Department of Commerce

Adopted Rules Relating to Nonrenewal of Homeowners Insurance

The rules proposed and published at *State Register*, Volume 9, Number 19, pages 956-960, November 5, 1984 (9 S.R. 956) are adopted as proposed.

Higher Education Coordinating Board

Adopted Emergency Rules Relating to Supplemental Loans to Post-Secondary Students

The above-entitled matter was published in the *State Register* on February 11, 1985 and on April 29, 1985, as a proposed temporary rule pursuant to Minnesota Statutes section 14.14, Subdivision 1, after affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules, identified as Student Educational Loan Fund, are adopted this 24th day of May, 1985, pursuant to authority vested in the Board by Minnesota Statutes Section 136A.111, and Minnesota Laws 1983, Chapter 258, Section 49.

State of Minnesota
David A. Longanecker
Executive Director
Minnesota Higher Education
Coordinating Board

The rules proposed and published at *State Register*, Volume 9, Number 33, pages 1783-1788, February 11, 1985 (9 S.R. 1783) and Volume 9, Number 44, page 2400, April 29, 1985 (9 S.R. 2400) are adopted with the following modifications:

Rules as Adopted, Emergency

**STUDENT EDUCATIONAL LOAN FUND (SELF)
MINNESOTA HIGHER EDUCATION COORDINATING BOARD (MHECB)
SUPPLEMENTAL AND ADDITIONAL LOANS**

4850.0011 [Emergency] DEFINITIONS.

Subp. 7. Correspondence or external degree program. “Correspondence or external degree program” is one that has no campus-based requirements or that provides the student no face-to-face contact with the financial aid officer.

Subp. 8. Cost of attendance. “Cost of attendance” includes:

- A. tuition and fees charged for the loan period;
- B. room and board charged for the loan period, or a reasonable allowance as determined by the school, for off-campus living; and
- C. a reasonable allowance as determined by the school for books, supplies, transportation, and personal expenses.

Subp. ~~8~~ 9. Credit worthy cosigner. “Credit worthy cosigner” means one who, in the judgment of the board has:

- A. no credit bureau balances discharged through bankruptcy or garnishments; and
- B. no more than five percent of current credit bureau balances past due.

Subp. 9. 10. Default. "Default" means the condition that exists if the borrower fails to perform any of the conditions of the promissory note.

Subp. 10. 11. Delinquency. "Delinquency" means the condition that exists when a borrower's scheduled payment of principal or interest or both is received by the board after the due date.

Subp. 11. 12. Due diligence. "Due diligence" means the use of practices by the board in making, servicing, and collecting of SELF loans that are at least as extensive and forceful as those generally practiced by financial institutions for consumer loans.

Subp. 12. 13. Eligible school. "Eligible school" means a school that:

A. has been approved by the United States Department of Education to participate in federal title IV financial aid programs;

B. is located in the United States or its territories; and

C. signs an institutional loan participation agreement with the Minnesota Higher Education Coordinating Board that lists the duties and responsibilities of both the school and the board.

Subp. 13. 14. Eligible student. "Eligible student" means a student who:

A. is enrolled in an eligible school in Minnesota, or is a Minnesota resident enrolled in an eligible school in another state or United States territory;

B. is enrolled at least half-time in a program (other than a correspondence or external degree program) leading to a certificate, associate, baccalaureate, masters, doctorate, or other professional degree;

C. is making satisfactory academic progress as defined by the school;

D. is not currently in default, as defined by each specific program, of any student educational loan program (GSL, FISL, NDSL, HPL, HEAL, ALAS, or other state supplemental loan program) at the current or any previous school;

E. is not currently delinquent in payment of interest or principal on an outstanding loan from the student educational loan fund;

F. has a credit worthy cosigner;

G. demonstrates financial eligibility by meeting the "maximum effort" test; and

H. has an anticipated graduation date no later than November 1, 1992.

Subp. 14. 15. Enrolled student. "Enrolled student" means a student who has registered for and begun the loan period at the eligible school.

Subp. 15. 16. Financial aid. "Financial aid" includes all money flowing to the student that is contingent upon the student's enrollment at the eligible school.

Subp. 16. 17. Forbearance. "Forbearance" means permitting the temporary halt of payments, allowing an extension of time for making payments, or accepting smaller payments than were scheduled.

Subp. 17. 18. Full-time student. "Full-time student" means one who is enrolled in an eligible school and who carries a full-time post-secondary level, vocational or academic workload as determined by the eligible school, ending in a certificate or degree.

Subp. 18. 19. Grade level. "Grade level" means the relative position of an eligible student in a degree or certificate granting program, and corresponds to an academic year. (For example, an eligible student in the second year of a four-year program would be in grade level 02.)

Subp. 19. 20. Graduate student. "Graduate student" means a student who is pursuing a program, or has a baccalaureate degree and is enrolled in courses which are normally part of a program leading to a graduate or professional degree or certificate at an eligible school, and has successfully completed the equivalent of at least three years of full-time study at an eligible school either prior to entrance into the program or as part of the program itself.

Subp. 20. 21. Half-time student. "Half-time student" means one who is enrolled in an eligible school and carrying a half-time academic workload as determined by the eligible school that amounts to at least one-half the workload of a full-time certificate or degree seeking student. In eligible schools utilizing clock hours, half-time enrollment includes programs requiring at least 300 clock hours.

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ADOPTED RULES

Subp. 21. 22. In-school period. "In-school period" means the period that the borrower is enrolled in an eligible school.

Subp. 22. 23. Late charge. "Late charge" means a charge, not to exceed \$20, that is assessed against borrowers each time a payment of principal and/or interest is received by the board more than 15 days after the due date.

Subp. 23. 24. Loan period. "Loan period" means the period for which the student receives the loan. The period begins on the first day of class and must not exceed 12 months.

Subp. 24. 25. Maximum effort. To have used "maximum effort" means that the student has applied for and exhausted all eligibility for other forms of financial aid (except work-study and PLUS/ALAS) before applying for a SELF loan. Financial aid administrators must include any financial aid that has been awarded or is expected to be awarded to the student for the loan period.

Subp. 25. 26. Payout period. "Payout period" means the time period which begins immediately following the transition period and runs to the earliest of:

- A. November 1, 2000; or
- B. ten years from the date of the end of the transition period the student ceases to be an eligible student; or
- C. fifteen years from the date of the first loan check; or
- D. a period negotiated with the borrower.

Subp. 26. 27. The bonds. "The bonds" means the variable rate demand bonds series 1984 issued by the Minnesota Higher Education Coordinating Board due December 1, 2000, for purposes of funding the student educational loan fund.

Subp. 27. 28. Transition period. "Transition period" means a one-year (365 days) period immediately following graduation or termination of enrollment.

Subp. 28. 29. Undergraduate student. "Undergraduate student" means a student who is not a graduate student.

4850.0017 [Emergency] REPAYMENT PROCEDURES.

Borrowers shall make payments of principal and interest according to the following schedule:

C. During the payout period, the board or its agent shall provide borrowers with coupon books annually for repayment of loan principal and interest. The fixed amount of the coupon shall reflect ~~(a)~~ (1) the interest rate in effect on the loan on the date the coupons are prepared (assumed actual rate), and ~~(b)~~ added to a fixed percentage to be determined by the board (assumed rate), (2) the length of the payout period, and (3) the principal balance of the loan plus the amount of any unpaid interest as of the beginning of the year for which coupons are being prepared, assuming all scheduled payments are made. The actual interest rate on the loan will must continue to vary. Payments of interest at the assumed rate exceeding actual interest accrued must be applied to the outstanding loan principal. If interest payments at the assumed rate are less than actual interest accrued, the difference must be billed annually by the board. A minimum annual payment of \$600 of loan principal and accrued interest must be required of all borrowers including SELF loans to spouses during the payout period any unpaid interest not past due must be included in the calculation of the amount of the coupons for the following year. All of a borrower's SELF loans must be combined into one repayment schedule. The borrower must pay a total of at least \$600 each year on all of the borrower's SELF loans. If the borrower's spouse also has SELF loans, their combined annual payments on all SELF loans must be at least \$600.

Department of Human Services

Adopted Rules for Training and Habilitation Reimbursement Procedures for ICF/MR's

The rules proposed and published at *State Register*, Volume 9, Number 39, pages 2094-2103, March 25, 1985 (9 S.R. 2094) are adopted with the following modifications:

Rules as Adopted

9525.1210 DEFINITIONS.

Subp. 12. Payment rates. "Payment rates" mean the rates approved by the commissioner for reimbursement of day training and habilitation services received by and transportation of an eligible client within a 24-hour period. The three kinds of payment rates are:

- A. A full-day service rate for clients whose individual service plans require the number of a minimum of six service hours per day which is defined in the agreement in part 9525.1240 as a full day, including the time it takes to transport the client to and from the service site.

Subp. 15. Work activity. "Work activity" means activity which is designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential. For this purpose, "inconsequential" means that the average wage paid to ~~the client~~ clients is within the range specified for work activity centers as provided by Code of Federal Regulations, title 29, section 525.2.

9525.1220 CLIENT ELIGIBILITY.

The day service provider may receive medical assistance reimbursement for providing day training and habilitation services to an eligible person if the person meets the criteria in items A to ~~E~~ F:

E. the person is determined to be in need of day training and habilitation services as specified in the individual service plan under parts 9525.0015 to 9525.0145 [Emergency];

F. the person does not receive day training and habilitation services at the ICF/MR from an approved day service provider or as part of the medical assistance rate of the ICF/MR.

9525.1230 APPROVAL OF DAY SERVICE PROVIDER.

Subpart 1. General requirements. A day service provider is approved by the commissioner to receive medical assistance reimbursement for day training and habilitation services when the day service provider meets the requirements in items A to J and complies with parts 9525.1200 to 9525.1330.

F. The day service provider must be authorized by each ICF/MR whose residents are enrolled by the day service provider to receive medical assistance payments from the ~~support services bureau of the~~ Department of Human Services under Code of Federal Regulations, title 42, section 447.10, paragraph (e).

9525.1240 DAY TRAINING AND HABILITATION AGREEMENT.

Subpart 1. Agreement contents. An agreement must be entered into by the day service provider, the ICF/MR whose residents will receive day training and habilitation services under the agreement, and the county where the ICF/MR is located, as specified under Minnesota Statutes, section 256B.501, subdivision 5, paragraph (d). This agreement must be completed annually on forms provided by the commissioner and must include at least the information in items A to ~~F~~ E:

9525.1250 REIMBURSABLE SERVICES.

Subpart 1. Types of services. Day training and habilitation services are reimbursable under the medical assistance program when the services are provided for the development and maintenance of life skills. Reimbursable services include transportation to and from the service site and supervision, assistance, and training in one or more of the following when they are provided to promote age-appropriate outcomes and community integration:

D. self-care, including grooming, eating, toileting, ~~and~~ dressing, medication monitoring, skin care, and oral hygiene;

9525.1260 COUNTY BOARD RATE RECOMMENDATION.

Subpart 1. Recommendation requirements. The county board shall recommend in writing to the commissioner payment rates for each approved day service provider which is identified by a county of financial responsibility to provide day training and habilitation services. For purposes of rate recommendations under this part, an entity which operates with more than one day training and habilitation services license, as provided by Minnesota Statutes, sections 245.781 to 245.812, is considered a separate day service provider for each license. When recommending payment rates for day service providers to the commissioner, the county board must meet the requirements in items A to F.

B. The county board shall recommend three payment rates for each day service provider: a full-day service rate, a partial-day service rate, and a transportation rate as defined in part 9525.1210, subpart 12. If a day service provider serves both preschool children and adults, the county board shall recommend separate payment rates for the preschool clients and the adult clients. If a day service provider operates more than one licensed site, the county board shall recommend the same payment rates for clients at each site unless the county board recommends an alternative rate structure under subpart 2.

Subp. 3. Payment rates for new day service providers. At least 60 days before service begins, the county board shall recommend in writing to the commissioner a proposal for approval as provided by part 9525.1230, subpart 2. The county board's recommendation must also include a description of the specific methods used to choose a day service provider and to develop rates. The day service provider recommended by the county board must meet the criteria in items A to ~~D~~ C.

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ADOPTED RULES

9525.1270 PAYMENT RATE CRITERIA AND COMMISSIONER'S APPROVAL OF RATES.

Subpart 1. Payment rates for approved day service providers. Payment rates established for approved day service providers under parts 9525.1230 and 9525.1260 must be in compliance with the criteria in items A to ~~E~~ D.

Subp. 2. Program change. Rates recommended under part 9525.1260 and approved under part 9525.1270 must not be affected by changes in ownership, bankruptcy and reincorporation, or location of the day service provider.

9525.1280 VARIANCE REQUEST.

Subpart 1. Variance request. The county board may request a one-time variance from the commissioner of the rate limits for an existing day service providers provider under part 9525.1270, subpart 1, item A. The variance in the rate limit shall not exceed the rate limit established for new day service providers under Minnesota Statutes, section 256B.501, subdivision 6. To be eligible for the variance, the existing day service provider must meet all the criteria in items A to ~~E~~ F.

A. Client turnover or day service provider expansion during the current rate year results in a change equal to 33-1/3 percent or more new clientele than were enrolled by the day service provider on December 31 of the previous rate year. The commissioner and the county board have both conducted a review and have identified the need for additional direct care program staff to meet the needs of clients.

B. An increase in the client-to-staff ratio is necessary to provide ~~new~~ clients with the required service as delineated in all ~~new~~ clients' individual service plans and individual habilitation plans under parts 9525.0015 to 9525.0145 [Emergency] and Minnesota Statutes, sections 252.21 to 252.261, and rules adopted thereunder.

E. The county board submits a description of the day service providers' plan to correct any staffing deficiency including the projected cost of the salary and related fringe benefits and payroll taxes for required additional program staff and the qualifications of required additional program staff.

F. The county board submits an explanation of the reasons the day service provider was unable to meet the required staff ratio under the current payment rates.

Pollution Control Agency

Adopted Rules Relating to Hazardous Waste

The rules proposed and published at *State Register*, Volume 9, Number 42, pages 2333-2336, April 15, 1985 (9 S.R. 2333) are adopted as proposed.

Secretary of State

Adopted Rules Relating to Financing Statements

The rules proposed and published at *State Register*, Volume 9, Number 40, pages 2173-2174, April 1, 1985 (9 S.R. 2173) are adopted as proposed.

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 Finance

Maximum Interest Rate for Municipal Obligations, July, 1985

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Jay Kiedrowski, announced today that the maximum interest rate for municipal obligations in the month of July will be ten (10) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to eleven (11) percent per annum.

For further information contact:

Peter Sausen, Director
Debt Management
State of Minnesota
Department of Finance
(612) 296-8372

Department of Health

Emergency Medical Services Licensure Application—Praxel Ambulance, Inc., Winona

As of July 8, 1985 a complete application for a change in licensure from Basic Life Support to Advanced Life Support Transportation Service was submitted by Praxel Ambulance, Inc., 507 East 8th Street, Winona, Minnesota.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health publish the notice at the applicant's expense in the *State Register*.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the State Health Planning Agency, 100 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, Attn: John Dilley. The comments must reach the Health Systems Agency before August 7, 1985 or be submitted at the public hearing.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation by the Commissioner of Health, the Commissioner shall grant or deny the license to the applicant.

Department of Human Services

Outside Opinion Sought Regarding Proposed Rule Governing Indian Relief

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing to promulgate a permanent rule governing the Indian Relief Program. Indian Relief is the program under which counties, cities, towns, or any other political subdivision are reimbursed for up to 75 percent of the costs of relief and related services provided to persons of Indian blood. The promulgation of this rule is authorized by Minnesota Statutes, section 245.76, subdivisions 1, 2, and 3.

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

Frances E. Felix
Administrative Services Section
Minnesota Department of Human Services
Centennial Office Building—Fourth Floor
St. Paul, Minnesota 55155

Oral statements and comments will be received over the telephone at 612/297-2710 between 8:30 a.m. and 4 p.m., Monday through Friday.

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

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
77-000-09248	All Risk's Property Insurance for Minnesota Zoo	MN Zoological Garden	Apple Valley	Contact buyer
78-630-06520	Dishless Tray System	MN Correctional Facility	Oak Park Heights	Contact buyer
Various	Meat & Meat Products for the month of August	Various	Various	Contact buyer
02-520-46102	Sheet Counter	Administration— Printing & Mailing	St. Paul	Contact buyer
55-201-06227	Hospital Equipment	Cambridge State Hospital	Cambridge	Contact buyer
55-201-06231	Med. Equipment	Cambridge State Hospital	Cambridge	Contact buyer
21-200-09898-9368	Notice of Determination on Initial Claim for Benefits	Economic Security	St. Paul	Contact buyer
79-000-47183	Airport Ret. Taxiway Markers	Transportation	Aeronautics	Contact buyer
02-520-46103	Duplex Copy System	Administration— Printing & Mailing	St. Paul	Contact buyer
32-500-12593	Purchase of Photocopy Machines	Pollution Control Agency	Various	Contact buyer
Contract 32-300-12776	Dry Bleach Water Treatment System	Various Pollution Control Agency	Various Spring Grove	\$4,000-\$6,000 Contact buyer
02-410-46519	Service Contract Pillar Generators	Administration— Information Management Bureau	St. Paul	Contact buyer
43-000-06335	Weight Lifting Equipment	Iron Range Resources & Rehabilitation Board	Biwabik	Contact buyer
Contract 75-200-06207	Coal Medication Cart	Various Veterans Affairs— Veterans Home	Various Minneapolis	Contact buyer Contact buyer
02-520-46113	Maintain Photocomposition System	Administration— Printing & Mailing	St. Paul	Contact buyer
79-500-02857, etc.	Rubbish Disposal Various Transportation Locations	Transportation— Various	Various	Contact buyer
32-500-12777	Move of Office Furnishings	Pollution Control Agency	Spring Grove	Contact buyer
27-000-45767-9384	MN Community College System Presentation Folder	MN Community College System	St. Paul	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Human Services

Request for Proposals for Women's Treatment

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is soliciting proposals for the development of a model chemical dependency treatment program for women and the implementation of that model in six treatment facilities within the state of Minnesota. A total of \$180,000 is available for this project. There will be no continuation or second year funding. The project will begin on or about November 1, 1985 and continue for one year.

All requests for further information or copies of the complete Request for Proposals (RFP) and application forms can be obtained by contacting Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be in the CDPD office, 6th floor, Space Center Building, 444 Lafayette, Saint Paul, MN 55101, no later than 4:20 p.m. on September 3, 1985.

Department of Human Services Minnesota Board on Aging

State Funds Available for New Retired Senior Volunteer Programs: Amount, Purpose and Eligibility

\$37,500 in state funds are available to develop two new Retired Senior Volunteer Programs (RSVP) in areas of the state not now covered by state and federally funded RSVP programs. Grants would be used to develop and administer RSVP programs, which provide meaningful retirement roles for persons 60 and over through community and volunteer services, providing needed volunteer help to non-profit or public agencies and organizations.

Two grants will be made to private non-profit or public agencies or organizations with proven capability to operate and administer programs for older people, social services, or volunteer programs geared to assisting community organizations. Grants will be for a nine month period beginning October 1, 1985. Continuation grants would be made for a twelve month period beginning July 1, 1986 with a total allocation of \$50,000 for the two projects.

Letter of Intent:

Letters of intent to apply for one of the two grants must be submitted by July 22, 1985 to Minnesota Board on Aging, 204 Metro Square Building, 121 East 7th, St. Paul, Minnesota 55101. Letters must identify the amount of funds to be requested and the specific areas to be served.

Application Process:

Application materials and technical assistance will be provided to organizations submitting letters of intent. The application materials will be similar to that required for federal RSVP funds. The federal ACTION agency will be asked to provide up to \$5,000 in federal funds to each state funded project. Grantees are expected to provide 10% first year local match. The local match may be waived prior to funding if unusual and mitigating circumstances arise.

Draft applications must be submitted to the Minnesota Board on Aging at the above address by August 15, 1985. Final applications must be submitted by September 6, 1985 for action by the Minnesota Board on Aging on September 13, 1985. Where joint state/federal participation in funding the new projects is proposed, the concurrence of the federal ACTION agency will be required prior to issuance of grant awards.

Funding Criteria:

Grants will be made to the applicants which, in the judgement of the Minnesota Board on Aging, will most effectively and efficiently meet the needs of the older population in the counties to be served through the RSVP program. The ability of the applicant agency to meet all state and federal requirements for operation of the program will be considered primary. Preference will be given to proposals for multi-county areas.

In order to assure coordination with existing volunteer, social service, and aging programs all applicants will be required to have letters of support from the Community Social Services Act authorities and the Area Agencies on Aging of the counties and regions to be served.

For Information:

Contact Arthur Weflen, Minnesota Board on Aging, 204 Metro Square Building, 121 E 7th St., St. Paul, Minnesota 55101, 612/296-3217.

STATE CONTRACTS

Department of Human Services Office of Child Support Enforcement

Request for Proposals to Study System Development for the Minnesota Child Support Enforcement Division

The Office of Child Support Enforcement is engaged in a project to determine whether it is feasible to automate a statewide clearinghouse for the child support enforcement program in the State of Minnesota. We are seeking proposals for professional and technical services to conduct an on-site feasibility study for the system development or enhancement effort of the Minnesota Child Support Enforcement System. The level of effort should include the following:

A. An analysis of the existing system, including a review and description of caseloads, collections received, percentage of cases with and without collections, degree of automation, functions performed, operating costs and functions not automated.

B. Definition of problems with existing system. Although previously identified in the requirements analysis, the reason for wanting to achieve a desired condition, the obstacles to obtaining that goal, and the problems which will be overcome in doing so should be addressed.

C. Identification of feasible alternative approaches which can be followed and a comparison of each against the issues identified and against each other.

D. OCSE model system should be considered as one alternative.

E. Selecting the best alternative which is implementable and which encompasses and integrates all components of the Title IV-D Program throughout the state, identifying the necessary equipment and resources.

F. A cost/benefit analysis for each alternative using the OCSE Guideline and/or any recognized professional methodology for conducting a cost/benefit analysis.

G. Evaluation of current system and hardware and recommendations for possible inclusion or exclusion with the alternatives selected.

The contractor will assist the State of Minnesota in its development of an updated Advanced Planning Document (APD). This updated APD will include a project management plan for this system's external design phase.

The contractor will determine what data is required for the system and will conduct an in depth analysis of the data elements required, potentially including a logical design for the data base.

The project must conform to the requirements outlined in 45 Code of Federal Regulations Part 307, Computerized Support Enforcement Systems.

This request for proposal does not obligate the state to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Additional information on child support enforcement or this automation project is available by contacting:

Wayland Campbell, Project Manager
Office of Child Support Enforcement
444 Lafayette Road—2nd Floor
St. Paul, Minnesota 55101
612/297-1112

Proposals will be accepted until 4:30 p.m., July 29, 1985.

State Designer Selection Board

Request for Proposal for State Projects

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA:

The State Designer Selection Board has been requested to select a designer for the Department of Transportation. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., July 30, 1985, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.
 - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.
 - f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
 - b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
 - c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.
6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:
- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.
 - b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7) PROJECT—8-85

**Crookston Maintenance Area Headquarters
Department of Transportation
Project Budget: \$992,000.00**

General Description

This building will be located on the existing Minnesota Department of Transportation site in Crookston, and will consist of approximately 19,000 sq. ft., including a large bay vehicle maintenance shop with floor hoist and overhead crane, a welding room, a machine shop, stock-room facilities and an administrative office wing. The structure be masonry or precast type for long life durability.

STATE CONTRACTS

Site Development

Very minimal site development is required since this building is being placed in an occupied site.

Design Contract

This project has had no prior designer involvement, however, the owner has a good feel for what is required and the plans should be able to proceed rapidly for an early 1986 letting. The fee offered is 7%. The Transportation contact person is Paul M. Jensen, Building Engineer at (612) 297-3591 in St. Paul.

John D. Nagel, Chairman
State Designer Selection Board

SUPREME COURT

Decision Filed Wednesday, June 19, 1985

Compiled by Wayne O. Tschimperle, Clerk

C5-84-1217 Korsunsky Krank Erickson Architects, Inc., Petitioner, Appellant, v. Harold E. Walsh, et al. Court of Appeals.

The plaintiff architects in this case are entitled to a lien against the landowner's interest in the subject property under Minn. Stat. § 514.06 (1984) where their services constituted a constructive contribution to an improvement of that property and the landowners consented to that improvement of that property and the landowners consented to that improvement without statutory disclaimer of authorization.

Reversed. Wahl, J.

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Contact: Senate Public Information Office
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 (612) 296-0504

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 Room 8 State Capitol, St. Paul, MN 55155
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