

86, June 23

STATE REGISTER

STATE OF MINNESOTA

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Monday 23 June 1986

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STATE REGISTER

Volume 10

Printing Schedule

Submission Deadlines

Vol. 10 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
52	Monday 7 June	Monday 16 June	Monday 23 June
53	Monday 16 June	Monday 23 June	Monday 30 June
Vol. 11 #1	Friday 20 June	Friday 27 June	Monday 7 July
Vol. 11 #2	Friday 27 June	Monday 7 July	Monday 14 July

*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, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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

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FOR LEGISLATIVE NEWS

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

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

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This Week—weekly interim bulletin of the House.

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

Cover graphic: *Minnesota State Capitol*, Ink drawing by Ric James.

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

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

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
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Issue 39, cumulative for 1-39
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The listings are arranged in the same order as the table of contents of the *Minnesota Rules 1985*.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

NOTE: This listing includes all proposed and adopted rules printed in this issue except emergency rules and errata for this issue. Please see those sections for the appropriate rule numbers.

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PROPOSED RULES

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

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

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

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

Department of Agriculture

Proposed Rules Relating to Seed Potato Certification

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to amend the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.22-14.28.

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

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address, and are encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any proposed change. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

Authority to adopt these rules is contained in Minnesota Statutes, Sections 21.113 and 21.118. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and iden-

tifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Ms. Milligan.

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 adopted, should submit a written statement of such request to Ms. Milligan.

The proposed amendments will not have a negative impact upon small business as defined in Minnesota Statutes, Section 14.115, because these rules will place no additional economic restraints or demands on producers or any other businesses.

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

Copies of this Notice and the proposed rule are available and may be obtained by contacting Ms. Milligan.

4 June 1986

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed

1555.6840 REQUIREMENTS FOR CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. [Unchanged.]

Subp. 2. **Field inspection.** Certification shall be based upon information regarding the following: stand, general vigor, varietal purity, disease tolerances, and factors affecting field inspection. At least two field inspections shall be made of each field during the growing season. Additional inspections may be made if deemed necessary by the commissioner.

A. and B. [Unchanged.]

C. Varietal purity. A field ~~shall~~ must be rejected if it contains ~~any more than two-tenths percent~~ any more than two-tenths percent varietal mixture at the time of inspection; ~~unless all varietal mixtures are removed by the grower before the next inspection.~~

D. and E. [Unchanged.]

Subp. 3. to 6. [Unchanged.]

1555.6850 REQUIREMENTS FOR PRIMARY FOUNDATION CERTIFIED SEED POTATO PRODUCTION.

Primary Foundation certified seed potatoes consist of potatoes which meet all the requirements of parts 1555.6750 to 1555.6840 as well as the additional requirements in this part:

A. and B. [Unchanged.]

C. Not more than two-tenths percent of any or all virus ~~diseases shall be~~ disease is allowed on any field inspection. No spindle tuber or varietal mixture is allowed.

D. to G. [Unchanged.]

1555.6870 VIRUS DISEASES AND VARIETAL PURITY.

Not more than three-tenths percent of any or all virus diseases ~~shall be, not including mild mosaic, is~~ is allowed on the final field inspection; ~~except that no spindle tuber is allowed and up to five-tenths percent is allowed for mild mosaic. Not more than five-tenths percent mild mosaic or one-tenth percent varietal mixture is allowed. No spindle tuber is allowed.~~

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

Charitable Gambling Control Board

Proposed Permanent Rules Relating to Lawful Gambling

Notice of Proposed Adoption of Rules without a Public Hearing

Notice is hereby given that the Minnesota Charitable Gambling Control Board ("Board") proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28 (Supp. 1985). The statutory authority to adopt the rules is Minnesota Statutes, sections 14.06 and 349.151, subd. 4(4).

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rules 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, public hearing will be held unless a sufficient number withdraw their request. With respect to the proposed fee contained in proposed Minn. Rules pt. 7860.0030, subp. 4.D., no public hearing need be held unless 20 percent of the persons who will be required to pay that fee submit to the Board during the 30-day period allowed for comment a written request for a public hearing on this proposed rule.

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 JULY 31, 1986 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE BOARD. To verify whether a hearing will be held, please call the Board between July 25, 1986 and July 30, 1986 at (612) 642-0555.

Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules 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.

A public hearing on the proposed rules will not be held unless there is adequate public demand for a hearing.

Comments or written requests for a public hearing must be submitted to:

Mr. Roger Franke, Executive Secretary
Minnesota Charitable Gambling Control Board
N-475 Griggs-Midway Building
1821 University Avenue
St. Paul, Minnesota 55104
612-642-0555

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

A copy of the proposed rules is attached to this notice. A free copy of the rule is available upon request from Mr. Roger Franke, Executive Secretary of the Board, at the aforementioned address.

The proposed rule may affect small businesses as defined in Minnesota Statutes, section 14.115. For a discussion of how the Board considered methods to reduce the impact of the rule on small businesses, see the Statement of Need and Reasonableness.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Mr. Roger Franke, Executive Secretary of the Board, upon request.

If no hearing is required, upon adoption of the rule, the rule and the required reporting documents will be submitted 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 Mr. Roger Franke, Executive Secretary of the Board, at the aforementioned address.

9 June 1986

Roger Franke, Executive Secretary
Minnesota Charitable Gambling Control Board

Notice of Intent to Adopt a Rule with Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to Minnesota Statutes, sections 14.131 to 14.20 (Supp. 1985), in the basement level conference room, State Office Building, 435 Park, St. Paul, Minnesota, on July 31, 1986, commencing at 9:00 a.m. and continuing until all interested persons have an opportunity to be heard.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF PROPOSED ADOPTION OF RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE MINNESOTA CHARITABLE GAMBLING CONTROL BOARD. To verify whether a hearing will be held, please call the Minnesota Charitable Gambling Control Board between July 25, 1986 and July 30, 1986 at (612) 642-0555.

All interested or affected persons, including representatives of associations or other interested groups, 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 Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608. The written material must be *received* at the Office of Administrative Hearings before the close of the hearing record.

The hearing record will remain open for the inclusion of written material for five working days after the hearing ends unless a longer period not to exceed twenty calendar days is ordered by the Administrative Law Judge at the hearing. Written material received during this period will be available for review at the Office of Administrative Hearings. The Minnesota Charitable Gambling Control Board ("Board") and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period.

This rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20 and by Minn. Rules pts. 1400.0200 to 1400.1200 (1985). Questions about procedure may be directed to the Administrative Law Judge.

The Board proposes to amend rules governing the conduct of lawful charitable gambling in Minnesota. The proposed rules will alter and add to the existing charitable gambling rule presently located in Minn. Rules pts. 7860.0010 to 7860.0310. The authority to adopt rules is Minnesota Statutes, sections 14.06 and 349.151, subd.4(4). A copy of the proposed rules is enclosed with the notice mailed to all persons on the Board's rulemaking mailing list. A free copy of the proposed rules as well as the Statement of Need and Reasonableness may be obtained by contacting:

Mr. Roger Franke, Executive Secretary
Minnesota Charitable Gambling Control Board
N-475 Griggs-Midway Building
1821 University Avenue
St. Paul, Minnesota 55104
(612) 642-0555

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

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

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone: (612) 296-5615.

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PROPOSED RULES

The proposed rule may affect small businesses as defined in Minnesota Statutes, section 14.115. For a discussion of how the Board considered methods to reduce the impact of the rule on small businesses, see the Statement of Need and Reasonableness.

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

Please note that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Board may not take any final action on the proposed 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 proposed rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rule is filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rule as adopted with the Secretary of State.

6 June 1986

Roger Franke, Executive Secretary
Minnesota Charitable Gambling Control Board

Rules as Proposed

7860.0010 DEFINITIONS.

Subpart 1. **Scope.** The terms used in ~~parts 7860.0010 to 7860.0310~~ this chapter have the meaning given them in this part.

Subp. 2. to 5. [Unchanged.]

Subp. 5a. **Certificate of registration.** "Certificate of registration" means a license issued by the board to a manufacturer to sell or otherwise make gambling equipment available to a licensed distributor.

Subp. 6. to 8. [Unchanged.]

Subp. 9. **Distributor.** "Distributor" is a person who sells or furnishes gambling equipment to a licensed organization manufactured or purchased for resale within the state.

Subp. 10. **Flare.** "Flare" means the posted display, with the Minnesota registration stamp affixed, that sets forth the rules of a particular game of pull-tabs, and that is associated with a specific deal of pull-tabs, grouping of tipboards, or series of up to 100 paddletickets.

Subp. 11. to 17. [Unchanged.]

Subp. 17a. **Manufacturer.** "Manufacturer" means any person who assembles from raw materials or subparts a completed piece or pieces of gambling equipment as defined in this part, and who sells or otherwise furnishes the same to any distributor or, if licensed as a distributor, to any licensed organization. The term includes any person who converts, modifies, adds to, or removes parts or a portion from any item, device, or assembly to further its promotion, sale, or use as gambling equipment in this state. A person adding only promotional flares to advise the public of the prizes available, the rules of play, and the consideration required is not a manufacturer.

Subp. 18 to 20. [Unchanged.]

Subp. 21. **Other nonprofit organization.** "Other nonprofit organization" means one of the following:

A. an organization other than a fraternal, religious, or veterans organization, and whose nonprofit status is evidenced by a certificate of nonprofit incorporation or has been recognized by the Internal Revenue Code as a nonprofit organization exempt from payment of income taxes; or

B. an affiliate, subordinate, or chapter of a statewide parent organization that meets the criteria of item A. This type of other nonprofit organization is recognized only for purposes of conducting lawful gambling pursuant to Minnesota Statutes, section 349.214.

Subp. 22. to 25. [Unchanged.]

Subp. 26. **Profit.** "Profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for ~~gambling supplies and equipment, prizes, rent, and utilities used during the gambling occasions, compensation paid to members for conducting gambling, prizes and~~ taxes imposed by Minnesota Statutes, section 349.212; ~~and maintenance of devices used in lawful gambling.~~

Subp. 27. to 31. [Unchanged.]

7860.0030 CLASSES OF LICENSES AND FEES.

Subpart 1. to 3. [Unchanged.]

Subp. 3a. Class D; raffle only. Organizations obtaining a Class D license may operate a raffle only, unless prohibited by a city or county regulation adopted pursuant to Minnesota Statutes, section 349.213, subdivision 1. This shall be known as a Class D license.

Subp. 4. Fees. The following license fees are established:

- A. an annual license fee for a Class A license is \$100;
- B. an annual license fee for a Class B license is \$50; ~~and~~
- C. an annual license fee for a Class C license is \$50; and
- D. an annual license fee for a Class D license is \$25.

License fees are not prorated or refundable.

7860.0040 LICENSE APPLICATION.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Required attachments to application. The applicant must attach the following material to the application:

A. [Unchanged.]

B. every eligible organization must file a copy of its written internal accounting and administrative control system relative to gambling operations with the board when they first apply for a license to conduct games of chance. ~~The original applicants of March 1, 1985, have until September 1, 1985, to comply with this requirement.~~

Subp. 4. Local approval. The applicant shall deliver a copy of the application to the clerk of the local governing body along with a notification that the license, if approved by the board, will become effective within 30 days unless the governing body adopts a resolution disapproving the license and so informs the board within 30 days. If the premises are located outside a city, the town board of the town and the county board of the county must both be notified. The clerk will sign an acknowledgement of receipt of the copy of the license application and notification.

Subp. 5. and 6. [Unchanged.]

Subp. 7. Out-of-state organization's records. Out-of-state organizations conducting lawful gambling in Minnesota must establish a permanent location within Minnesota where the organization's gambling records required to be maintained by ~~these rules~~ this chapter will be kept.

Subp. 8. [Unchanged.]

7860.0100 LESSOR OF GAMBLING SITE-RESTRICTIONS.

Subpart 1. Participation in gambling activity prohibited. If the premises where lawful gambling is to be conducted is a public building or a building approved by the board for more than four bingo occasions, the building manager and staff and all officials in a position, individually or collectively, to approve or deny the lease shall not directly or indirectly participate in the selling, distributing, conducting, or assisting in the playing of lawful gambling at the leased premises.

Subp. 2. and 3. [Unchanged.]

7860.0120 GENERAL ACCOUNTING RECORDS.

Subpart 1. General records. Every organization shall maintain complete, accurate, and legible general accounting records with detailed, supporting, subsidiary records sufficient to furnish information regarding all transactions pertaining to gambling. The accounting records must be sufficient to adequately reflect gross receipts, prizes, net receipts, expenses, and all other accounting transactions. The records must be retained for a period of ~~three~~ two years from the end of the month for which the records are kept unless the organization is released by the board from this requirement as to any particular record or records.

Subp. 2. [Unchanged.]

Subp. 3. Reports filed with the board monthly. The information required in subpart 2 must be filed with the board monthly on forms prescribed by the board or quarterly in the case of a licensed organization that does not report more than \$1,000 in gross

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PROPOSED RULES

receipts from lawful gambling in any calendar quarter. This report must be filed at the same time and as part of the organization's monthly tax return.

7860.0160 EXPENSES.

Subpart 1. **Expenses allowed.** Reasonable sums that are necessarily and actually expended for the following items, are allowed to be taken from gross receipts from lawful gambling:

- A. to E. [Unchanged.]
- F. taxes imposed by Minnesota Statutes, section 349.212; and
- G. maintenance of devices used in lawful gambling;
- H. accounting services;
- I. license renewal;
- J. bond for gambling manager;
- K. insurance on gambling activities;
- L. investigation fee; and
- M. advertising.

Subp. 2. **Definitions.** For purposes of subpart 1:

A. "Prizes" mean actual cash given to winners in gambling games. Prizes also include the cost of merchandise given to winners of gambling games. Merchandise must be expensed at the actual cost to the organization.

B. "Gambling supplies and equipment" mean:

(1) to (7) [Unchanged.]

C. "Rent" means that reasonable amount of money expended pursuant to a lease of a specific premises for the purpose of conducting lawful gambling.

D. "Utilities" mean:

(1) and (2) [Unchanged.]

E. "Compensation paid to members for conducting lawful gambling" means compensation plus reasonable employer-paid benefits, and payroll taxes for employees directly engaged in conducting gambling. If the employee performs other services unrelated to gambling activities, an allocation based on hours worked in each activity must be made. For purposes of this item, "member" includes active members of the organization, its auxiliary, the spouse or surviving spouse of an active member, and nonmembers hired as nonmanagement assistants pursuant to the approval of the organization.

F. "Taxes" mean the tax on gross receipts minus prizes actually paid out.

G. "Maintenance of devices used in lawful gambling" means the reasonable material and labor charges for the repair and maintenance of equipment or devices used in lawful gambling.

H. "Accounting services" means the reasonable expense of services for completion of the periodic reports required by statute and rule and provided to the board.

I. "License renewal" means the actual cost incurred by an organization to satisfy the license fee imposed by the board.

J. "Bonds for the gambling manager" means the actual cost incurred by an organization for the fidelity bonds for the gambling managers for license renewal.

K. "Insurance on gambling activities" means the reasonable expense of coverage of gambling equipment and gambling funds for theft, burglary, or casualty loss at the licensed premises.

L. "Investigation fee" means the fee imposed by the local governing unit to investigate the applicant for a gambling license renewal.

M. "Advertising" means the amount of gambling funds actually expended for the purpose of calling the attention of the public to the conduct of lawful gambling by a licensed organization. The amount expended shall not exceed two percent of the annual gross receipts of the licensed premises or \$5,000 per year per licensed premises whichever is less.

Subp. 3. **Unallowable expenses.** The following may not be taken as expenses from lawful gambling receipts:

- A. advertising costs (advertising does not include bingo programs distributed on site);
- B. utilities when only a portion of a building or business place is leased for gambling;

~~C. employer-paid bonuses or payments made to or on behalf of a gambling employee other than those specifically allowed in subpart 2, item E; and~~

~~D. decorations of the site.~~ **Compensation schedule.** Compensation paid annually for the conduct of lawful gambling shall not exceed six percent of the annual gross receipts of an organization.

Subp. 4. Percent expended for allowable expenses. Compliance by an organization with the maximum percentage of profits expended for allowable expenses must be determined on an annualized basis.

Subp. 5. Unallowable expenses. The following may not be taken as expenses from lawful gambling receipts:

A. utilities when only a portion of a building or business place is leased for gambling;

B. employer-paid bonuses or payments made to or on behalf of a gambling employee other than those specifically allowed in subpart 2, item E; and

C. decorations of the site.

7860.0190 UNLICENSED BINGO.

Subpart 1. [Unchanged.]

Subp. 2. Restrictions applicable to bingo exempt from licensure. The following restrictions are applicable to exempt bingo. The organization must:

A. to I. [Unchanged.]

J. keep these records for ~~three~~ two years; and

K. [Unchanged.]

7860.0200 DISTRIBUTORS.

Subpart 1. [Unchanged.]

Subp. 2. Application required. Annual application must be made for a distributor's license. The application will be on a form provided by the board, which form will include at least the following information:

A. to H. [Unchanged.]

I. the address of facility into which all gambling equipment and supplies is unloaded prior to sale in this state where state registration stamps will be affixed and records will be kept as required by subpart 9;

J. to L. [Unchanged.]

Subp. 3. [Unchanged.]

Subp. 4. Restrictions on distributorship interest. The following are the restrictions on distributorship interest:

A. No organization that conducts lawful gambling shall be a distributor.

B. ~~No person who is an officer, director, manager, or gambling manager, of any organization conducting lawful gambling shall be an officer, director, shareholder, directly or indirectly, proprietor, or employee of a distributorship, nor shall the person have any direct or indirect financial interest whatsoever in such distributorship.~~

~~C.~~ No person who is an officer, director, shareholder, directly or indirectly, partner, or proprietor of a wholesale alcoholic beverage distributorship shall be an officer, director, shareholder, partner, proprietor, or employee of a distributorship, nor shall the person have any direct or indirect financial interest in the distributorship.

~~D. C.~~ No distributor or person having a direct or indirect financial interest in a distributorship shall be a lessor of premises, directly or indirectly, to an organization conducting gambling.

D. All distributor personnel who sell, offer for sale, or furnish gambling equipment must advise the board in writing of their memberships in organizations that conduct lawful gambling.

Subp. 5. [Unchanged.]

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PROPOSED RULES

Subp. 6. **Marking and identification of equipment for gambling.** The following requirements apply to the marking and identification of equipment for lawful gambling.

A. A distributor is responsible for placing a state registration stamp upon the flare of each deal of pull-tabs, each master flare for tipboards, each master flare for a group of up to 100 paddleticket cards, each paddlewheel, ~~each bingo card that is used or intended to be used for more than one bingo game~~, and each device for selecting bingo numbers that is sold or otherwise disposed of. This rule part does not apply to sales by distributors to out-of-state customers for use out of state or to sales between distributors for resale to an organization.

B. to H. [Unchanged.]

Subp. 7. [Unchanged.]

Subp. 8. **Books and records to be kept.** Each distributor shall maintain for ~~six years~~ one year records that contain the following information relative to the purchase and sale, lease, rental, or loan of gambling equipment.

A. and B. [Unchanged.]

Subp. 9. to 19. [Unchanged.]

Subp. 20. **License fee.** The annual distributor license fee is \$1,500. There will be no proration of the license fee.

Subp. 21. **Renewal date.** All distributor licenses must be renewed on March 1 of each year. There will be no proration of the license fee. **Picture identification card.** Each person eligible to conduct sales on behalf of a distributor must have in possession a picture identification card provided by the board which contains the following:

A. picture of the salesperson;

B. name of the salesperson;

C. name of distributor;

D. license number and expiration date of distributor's license;

E. address and business phone number of distributor;

F. signature of distributor; and

G. date of issue and signature of executive secretary of the board.

Subp. 22. **Failure to produce information; costs of investigation.** Upon the failure of a distributor to submit information to the board as required under the statutes and rules relating to lawful gambling, the board shall notify the distributor in writing that the distributor is responsible for the travel and living expenses of board staff while investigating the distributor.

7860.0220 REGISTRATION OF EQUIPMENT.

Subpart 1. **Registration required.** All gambling equipment sold, leased, rented, or loaned by a distributor to an organization must be registered with the board as follows:

A. and B. [Unchanged.]

C. a state registration stamp must be affixed to the master flare for each sealed grouping of 100 paddleticket cards and have a facsimile of the state registration stamp imprinted on each paddleticket card stub with the distributor's license number printed on the facsimile in the place of the paddleticket card numbers; and

D. ~~a state registration stamp must be affixed to each bingo card that is used or intended to be used for more than one game. Disposable bingo cards do not require a registration stamp, but will be considered registered when the distributor records on the invoice the series number and card numbers sold;~~

~~E.~~ a state registration stamp must be affixed to paddlewheels and devices for selecting bingo numbers.

Subp. 2. [See Repealer.]

7860.0230 BINGO.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Manner of conducting bingo.** The conducting of a bingo game includes the following rules:

A. to P. [Unchanged.]

Q. Immediately upon a bingo player declaring a winning combination on the card or cards of letters and numbers, and if the prize is \$100 or more, the serial number of the winning card number shall be stated aloud by an organization employee. The winning card shall be verified by an organization employee and at least one neutral player.

R. and S. [Unchanged.]

Subp. 5. to 11. [Unchanged.]

7860.0240 PULL-TABS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Prize and bet limitations.** Prizes and bets will be limited, awarded, and controlled in the following manner:

A. The highest denomination of winning pull-tabs must not be more than \$500 \$250.

B. to E. [Unchanged.]

Subp. 6. [Unchanged.]

Subp. 7. **Records.** The following records must be kept of pull-tab activity:

A. The organization shall maintain the following information with regard to individual games for a period of ~~three~~ two years from the end of the month for which the records are kept.

B. and C. [Unchanged.]

D. The record of any winning pull-tab in the amount of \$100 or greater shall consist of one of two methods. If the pull-tab seller knows the actual name of the winner and the city in which he or she lives, the winner may legibly sign in ink the winning pull-tab with his or her real name. The legibility of the signature must be verified by the seller and the seller must initial the pull-tab and date it. If the identity of the winner is unknown, a sequentially numbered receipt shall be used and the receipt shall include at minimum the following information:

(1) to (4) [Unchanged.]

(5) No organization shall use any other type of receipt to make a record of the win unless permission is requested of the board in writing and granted by the board. Every organization shall keep all of the information required in this item for a period of ~~three~~ two years.

E. and F. [Unchanged.]

Subp. 8. [Unchanged.]

7860.0250 TIPBOARDS.

Subpart 1. to 6. [Unchanged.]

Subp. 7. **Retention of played tipboards.** All played tipboards and the accompanying master flare with the state registration stamp affixed must be retained for ~~three~~ two years following the end of the month in which that series was played and reported.

7860.0260 PADDLEWHEELS.

Subpart 1. [Unchanged.]

Subp. 2. **Registration stamps.** Each sealed grouping of up to 100 paddleticket cards must have a state registration stamp affixed to the master flare accompanying the group with the paddleticket card numbers written in by the distributor on the space provided on the master flare.

An organization may not use paddletickets:

A. to C. [Unchanged.]

Subp. 3. [Unchanged.]

Subp. 4. **Retention of played paddletickets.** All paddleticket stubs and the accompanying master flare with the state registration stamp affixed must be retained for a period of ~~three~~ two years following the end of the month in which that paddleticket card was played and reported.

Subp. 5. and 6. [Unchanged.]

7860.0270 RAFFLES.

Subpart 1. to 3. [Unchanged.]

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PROPOSED RULES

Subp. 4. **Records.** The organization shall maintain the following records or information with regard to individual raffles for a period of ~~three~~ two years:

A. to C. [Unchanged.]

Subp. 5. **Prize limitations.** Prizes for a raffle may not exceed the following limits:

A. Total prizes for raffles may not exceed a total value of ~~\$50,000~~ \$100,000 per organization in a calendar year.

B. Cash prizes may not exceed ~~\$500 per day~~ \$12,000 which may be awarded:

(1) ~~as a single prize; or~~

(2) ~~as the total amount of cash prizes for a single raffle; or~~

(3) (2) as the total amount of prizes for several complete raffles, the drawings for which are conducted on the same day.

C. and D. [Unchanged.]

~~E. Raffles that pre-exist November 20, 1984, must be allowed to continue after March 1, 1985, if the raffle was authorized by the local unit of government.~~

Subp. 6. [Unchanged.]

7860.0280 RULES OF PLAY, ODDS, AND HOUSE PERCENTAGES.

Subpart 1. Posting on premises. A licensed organization must prominently post ~~the rules of play and the odds or the house percentages on each form of lawful gambling conducted by the organization.~~ the following information at the licensed premises:

A. Name of licensed organization.

B. License number of licensed organization.

C. Effective date of license to conduct lawful gambling.

D. The primary recipients of the lawful purpose expenditures of the licensed organization.

E. Odds or house percentages on each form of lawful gambling conducted by the organization.

F. House rules for the conduct of lawful gambling.

The sign shall be adequately lighted, shall be legible, and shall not be less than 18 inches by 24 inches in size.

Subp. 2. Posting on equipment. The odds ~~or~~, house percentages, or number of tickets must be displayed on the flare accompanying a deal of pull-tabs and the master flare accompanying a sealed grouping of tipboards or up to 100 paddleticket cards.

This information is prominently posted if it can be readily seen by a player immediately before the player participates in the specific form of lawful gambling to which the information applies.

Rules as Proposed (all new material)

7860.0400 MANUFACTURERS.

Subpart 1. Registration required. No manufacturer of gambling equipment may sell any gambling equipment to any person unless the manufacturer has obtained a manufacturer's certificate of registration.

Subp. 2. Application required. Annual application must be made for a manufacturer's certificate of registration. The application must be on a form provided by the board, and include at least the following information:

A. the name and official position of person responsible for completing application;

B. the name of business;

C. the mailing address of business;

D. the office address if different than mailing address;

E. the telephone number of business;

F. a list of the owners, partners, officers, and directors;

G. the address of facilities where gambling equipment is manufactured for sale;

H. a statement as to whether any owner, partner, officer, or director:

(1) has been convicted of a felony within the last five years or now has a felony charge pending in any state or federal court;

(2) has ever been convicted in any state or federal court of a gambling-related offense; and

I. the chief executive officer or owner shall verify the statements made in the application.

Subp. 3. Restrictions on manufacturer interest. The following are the restrictions on manufacturer interest:

A. No organization that conducts lawful gambling shall be a manufacturer.

B. No person who is an officer, director, manager, or gambling manager, of any organization conducting lawful gambling shall be an owner, officer, director, partner, proprietor, or employee of a manufacturer, nor shall the person have any direct or indirect financial interest in the manufacturer.

C. No person who is an owner, officer, director, partner, or proprietor of a wholesale alcoholic beverage distributorship shall be an owner, officer, director, partner, proprietor, or employee of a manufacturer, nor shall the person have any direct or indirect financial interest in the manufacturer to be registered.

D. No manufacturer or person having a direct or indirect financial interest in the manufacture of gambling equipment shall be a lessor of premises, directly or indirectly, to an organization conducting gambling.

Subp. 4. Changes in application information. Any changes in the information submitted in the application must be filed with the board within ten days after the change.

Subp. 5. Marking and identification of equipment for gambling. The following requirements apply to the marking and identification of equipment for lawful gambling.

A. Flares will be furnished to the distributor with each pull-tab deal and a master flare with each sealed grouping of tipboards or up to 100 paddleticket cards.

B. Effective January 1, 1987, each flare must fully describe the prizes and winning number, symbol, or set of symbols, odds, house percentage, or number of tickets, and manufacturer's label or trademark.

Subp. 6. Conditions of registration. The manufacturer is responsible for complying with the standards for pull-tabs and tipboard tickets under part 7860.0300.

Subp. 7. Buying from and selling only to distributors required. No manufacturer shall sell or otherwise make available to any distributor any gambling equipment unless it has first determined that the distributor has a valid license issued by the board. No distributor shall purchase or otherwise obtain from any manufacturer any gambling equipment until it has first determined that the manufacturer selling or otherwise offering the gambling equipment has a valid certificate of registration issued by the board to sell the gambling equipment in this state.

Subp. 8. Examination of books and records. The board and its agents may examine or cause to be examined the books and records of any manufacturer to the extent that the books and records relate to any transaction connected to the sale of gambling equipment in this state, and no manufacturer shall prohibit, interfere with, or otherwise impede the examination, but shall cooperate and assist with the examination, and provide the information required.

Upon the failure of the manufacturer to comply with this subpart, the board shall notify the manufacturer in writing that the manufacturer is responsible for the travel and living expenses of board staff while examining the manufacturer's books and records.

Subp. 9. Manufacturers not to sell coin-operated machine or mechanical pull-tab dispensing devices. No coin-operated machine or mechanical pull-tab dispensing device shall be sold or otherwise furnished to any distributor in this state.

Subp. 10. Registration fee. The annual manufacturer's fee is \$500. There will be no proration of the registration fee.

Subp. 11. Disclosure of registered office and agent. A nonresident manufacturer must notify the board in writing of the location of its registered office in Minnesota and the name of its registered agent in Minnesota.

REPEALER. Minnesota Rules, parts 7860.0070, subpart 1; and 7860.0220, subpart 2 are repealed.

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PROPOSED RULES

Department of Human Services

Proposed Rules Relating to Chemical Dependency Care for Public Assistance Recipients

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-entitled 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 254A.03, subdivision 3; and section 256E.05.

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. 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 1, 1986, 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 between July 24, 1986 and July 31, 1986 at 612/297-1489.

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

Rae Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
Telephone 612/297-1489

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on July 23, 1986.

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.

In 1981 the Minnesota Legislature mandated the establishment of criteria for determining the appropriate level of treatment services for chemically abusing and dependent individuals to be paid for with public funds by enacting Minnesota Statutes, section 254A.03, subdivision 3. In 1984, the Legislature added rulemaking authority to the statute.

The proposed rules, Minnesota Rules, parts 9530.6600 to 9530.6655 establish the criteria required by Minnesota Statutes, section 254A.03, subdivision 3. Additionally, these proposed rules were developed to facilitate the implementation of the consolidated chemical dependency treatment fund authorized by the 1986 Legislature in Minnesota Statutes, chapter 254B.

The proposed rules require the county boards of commissioners to provide assessment and placement services. The county may provide the services directly or by contracting with private service providers. The proposed rules include a "conflict of interest" provision governing those contracts and a variance process to the "conflict of interest" provision under specific circumstances.

These rules establish placement criteria for treatment of chemical abuse or dependency treatment in the following programs: outpatient treatment, residential treatment in a freestanding facility, residential treatment in a hospital setting, extended care, and halfway houses. The rules also established exceptions to those criteria when distance, funding sources, prior treatment history, or special needs of the client based on age, sex, or the cultural background indicate a need to deviate from the established criteria.

The proposed rules also include definitions of terms necessary for uniform application of these rules; the qualifications necessary for individuals to perform chemical abuse and dependency assessments; the information which must be gathered in the process of determining the appropriate level of care; recordkeeping requirements; and appeal provisions.

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

Lee Gartner
Chemical Dependency Program Division
6th Floor, Space Center
444 Lafayette Road
St. Paul, Mn 55101
Telephone: 612/296-8574

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the state of Minnesota.

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 Lee Gartner upon request.

The Department estimates that the total cost to all local public bodies to implement the proposed rules will exceed \$100,000 per year in the first two years following the rules adoption. A fiscal note explaining how costs were determined is attached to this Notice. A copy of the fiscal note is also available from Lee Gartner.

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 Rae Bly.

2 June 1986

Leonard W. Levine, Commissioner
Department 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 State Office Building, Room 300 North, 435 Park, St. Paul, Minnesota, 55155 on August 1, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

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 July 24, 1986 and July 31, 1986 at 612/297-1489.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon Lunde, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

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PROPOSED RULES

In 1981 the Minnesota Legislature mandated the establishment of criteria for determining the appropriate level of treatment services for chemically abusing and dependent individuals to be paid for with public funds by enacting Minnesota Statutes, section 254A.03, subdivision 3. In 1984, the Legislature added rulemaking authority to the statute.

The proposed rules, Minnesota Rules, parts 9530.6600 to 9530.6655 establish the criteria required by Minnesota Statutes, section 254A.03, subdivision 3. Additionally, these proposed rules were developed to facilitate the implementation of the consolidated chemical dependency treatment fund authorized by the 1986 Legislature in Minnesota Statutes, chapter 254B.

The proposed rules require the county boards of commissioners to provide assessment and placement services. The county may provide the services directly or by contracting with private service providers. The proposed rules include a "conflict of interest" provision governing those contracts and a variance process to the "conflict of interest" provision under specific circumstances.

These rules establish placement criteria for treatment of chemical abuse or dependency treatment in the following programs: outpatient treatment, residential treatment in a freestanding facility, residential treatment in a hospital setting, extended care, and halfway houses. The rules also establish exceptions to those criteria when distance, funding sources, prior treatment history, or special needs of the client based on age, sex, or cultural background indicate a need to deviate from the established criteria.

The proposed rules also include definitions of terms necessary for uniform application of these rules; the qualifications necessary for individuals to perform chemical abuse and dependency assessments; the information which must be gathered in the process of determining the appropriate level of care; recordkeeping requirements; and appeal provisions.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 254A.03, subdivision 3; and section 256E.05. The Department estimates that the total cost to all local public bodies to implement the proposed rules will exceed \$100,000 per year in the first two years following the rules adoption. A fiscal note explaining how costs were determined is attached to this Notice. A copy of the fiscal note is also available from Lee Gartner, Chemical Dependency Program Division, 6th Floor, Space Center, 444 Lafayette Road, St. Paul, Minnesota, 55101, 612/296-8574.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Lee Gartner, Chemical Dependency Program Division, 6th Floor, Space Center, 444 Lafayette Road, St. Paul, Minnesota, 55101, 612/296-8574.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Lee Gartner.

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

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings 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 communication or urging others to communicate with public officials; or

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

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

2 June 1986

Leonard W. Levine, Commissioner
Department of Human Services

Fiscal Note

Fiscal impact statement of Minnesota Rule Parts 9530.6600 to 9530.6655. These rule parts govern county responsibility for the appropriate placement of public assistance clients seeking chemical dependency treatment services.

The purpose of this fiscal note is to estimate the costs of implementing rule Parts 9530.6600 to 9530.6655 for local units of government. It is estimated that additional costs to be incurred by counties will be \$100,000 for compliance with Rule Part 9530.6615, Subpart 1, requiring chemical use assessments.

All figures used in this fiscal note are based on 1984 activity (actual occurrences where available).

Counties now, directly or through purchase of service, provide 13,284 chemical dependency assessments per year. There are 6,615 chemical dependency cases paid for by Medical Assistance or General Assistance Medical Care. The MA/GAMC cases are not necessarily among the county assessments. To determine the estimated number of MA/GAMC clients already receiving county assessments, the Chemical Dependency Program Division conducted a telephone survey of all 87 counties (see attached survey data).

As a part of the survey, the county was provided the actual number of chemical dependency cases billed to that county in 1984. They were then requested to estimate the percentage or number of those cases which had received county chemical dependency assessment services. If a county provided less than 100% of the MA/GAMC assessments, they were asked to identify whether or not they had the staff capacity to do additional assessments, and to what extent. The statewide total of those estimates was 2,840 cases.

In addition to these assessments counties also provide 2,645 assessments to persons on MA/GAMC through their arrangements with detoxification facilities. This information was obtained directly from the detoxification facilities which report on the Drug and Alcohol Abuse Normative Evaluation System to the Chemical Dependency Program Division.

Therefore, the total assessments of MA/GAMC clients already purchased or provided by counties is 5,485 clients (2,645 in detoxification facilities and 2,840 by county staff or other arrangements). This leaves an anticipated 1,130 clients for whom a county assessment will be required under those rule parts and for whom an assessment was not provided or purchased by the county.

The costs for the additional assessments are based on an average of 1.5 hours at \$60 an hour per assessment. This was the average reported time and cost from the county survey. At this rate (1,130 assessments × \$90 per assessment) it will cost the counties an additional \$101,700 in each fiscal or calendar year. This does not include any inflationary increases.

An assumption has been made that all 87 counties have available or access to a qualified assessor as determined in Rule Part 9530.6615 governing the assessment and the qualifications of an assessor.

It is estimated that under M.S. 254B, the Chemical Dependency Consolidated Treatment Fund, local units of government will receive approximately \$800,000 in administrative assistance. These funds will be available to local units of government for whatever administrative costs they may incur, including chemical dependency assessments.

**Results of County Survey
Regarding Rule Parts 9530.6600-9530.6655**

	<u>Counties</u>	
	<u>Number</u>	<u>Percent</u>
I. Who Does Chemical Dependency Assessments		
County staff directly provide	45	52%
Purchase through a contract	21	24%
Combination of direct and purchased	21	24%
	<u>87</u>	<u>100%</u>
II. Capacity to Assess MA/GAMC Cases		
Purchasing or providing 100% of MA/GAMC cases	37	43%
Existing capability of providing 100%	27	31%
Additional resources needed	23	26%
	<u>87</u>	<u>100%</u>
III. Counties Paying for Inservice Training	87	100%
IV. Currently Providing or Purchasing Services From a Qualified Assessor	72	83%

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PROPOSED RULES

Rules as Proposed (all new material)

9530.6600 CHEMICAL DEPENDENCY CARE FOR PUBLIC ASSISTANCE RECIPIENTS; GENERAL PROVISIONS.

Subpart 1. **Applicability.** Parts 9530.6600 to 9530.6655 establish criteria that counties shall apply to determine the appropriate level of chemical dependency care for a client seeking treatment for chemical dependency and abuse problems which requires the expenditure of public funds for treatment.

Subp. 2. **Programs governed.** Parts 9530.6600 to 9530.6655 apply to counties and chemical dependency or abuse treatment programs licensed to provide chemical dependency or chemical abuse related services under parts 9530.2500 to 9530.4000, and 9530.5000 to 9530.6500, or similar programs located in acute care hospitals.

Subp. 3. **Funding sources governed.** All financial resources allocated for chemical abusing or dependent individuals under Minnesota Statutes, chapters 246, 256B, 256D, and 256E, shall be expended in accordance with parts 9530.6600 to 9530.6655.

9530.6605 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 9530.6600 to 9530.6655 the following terms have the meanings given them.

Subp. 2. **Adolescent.** "Adolescent" means an individual under 18 years of age, defined as a child under Minnesota Statutes, section 260.015, subdivision 2.

Subp. 3. **Arrest or legal intervention related to chemical use.** "Arrest or legal intervention related to chemical use" means an arrest or legal intervention for a crime that took place while the individual was under the influence of chemicals, took place in order to obtain chemicals, or took place in order to obtain money to purchase chemicals. When the client is an adolescent, arrest or legal intervention related to chemical use also means contact with law enforcement personnel as a result of a crime that meets this definition but for which no arrest took place, and status offenses and petitions of incorrigibility in which behavior resulting from chemical use played a significant role.

Subp. 4. **Assessor.** "Assessor" means an individual qualified under part 9530.6615, subpart 2 to perform an assessment of chemical use.

Subp. 5. **Chemical.** "Chemical" means alcohol, solvents, and other mood altering substances, including controlled substances as defined in Minnesota Statutes, chapter 152.

Subp. 6. **Chemical abuse.** "Chemical abuse" means a pattern of inappropriate and harmful chemical use as defined in subpart 18. "Chemical abuse" includes inappropriate and harmful patterns of chemical use that are linked to specific situations in an individual's life such as loss of a job, death of a loved one, or sudden change in life circumstances. Chemical abuse does not involve a pattern of pathological use, but it may progress to pathological use.

Subp. 7. **Chemical dependency.** "Chemical dependency" means a pattern of pathological use as defined in subpart 20, accompanied by the physical manifestations of increased tolerance to the chemical or chemicals being used or withdrawal syndrome following cessation of chemical use. Chemical dependency includes a pattern of pathological use as defined in subpart 20, accompanied by the physical manifestations of increased tolerance to the chemical or chemicals being used or withdrawal syndrome following cessation of chemical use, which has been interrupted by a period of incarceration or hospitalization.

Subp. 8. **Chemical use assessment.** "Chemical use assessment" means an assessment interview and written listing of the client's specific problems related to chemical use which enables the assessor to determine a level of chemical involvement rating according to part 9530.6620, subpart 2.

Subp. 9. **Client.** "Client" means an individual who is eligible for chemical dependency treatment funded under Minnesota Statutes, chapters 246, 256B, 256D, and 256E, and who has requested chemical dependency assessment services from a county.

Subp. 10. **Collateral contact.** "Collateral contact" means an oral or written communication initiated by an assessor for the purpose of gathering information from an individual or agency, other than the client, to verify or supplement information provided by the client during an assessment under part 9530.6615. Collateral contact includes contacts with family members, criminal justice agencies, educational institutions, and employers.

Subp. 11. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 12. **County.** "County" means the county of financial responsibility as defined under Minnesota Statutes, section 256E.08, subdivision 7 or the county designee.

Subp. 13. **Culturally specific programs.** "Culturally specific programs" means programs or subprograms:

- A. designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background;
- B. governed with significant input from individuals of that specific background; and

C. that employ individuals to provide individual or group therapy, at least 50 percent of whom are of that specific background.

Subp. 14. **Department.** "Department" means the Department of Human Services.

Subp. 15. **Extended care.** "Extended care" means a licensed chemical dependency residential program that offers a long-term combination of in-house chemical dependency services and community ancillary resources. Extended care programs must provide at least 15 hours a week per individual of chemical dependency services including group and individual counseling, lectures, and other services specific to chemical dependency rehabilitation.

Subp. 16. **Family support.** "Family support" means an individual has a parent, child, sibling, spouse, or significant other who is willing to assist the individual in achieving individual treatment goals.

Subp. 17. **Halfway house.** "Halfway house" means a licensed chemical dependency residential facility with a program that offers a transitional semi-independent living arrangement with an emphasis on aftercare and community ancillary services. Halfway house programs must provide at least five hours a week of chemical dependency rehabilitation services which may include group counseling, employment counseling, individual counseling, or self-help groups.

Subp. 18. **Inappropriate and harmful use.** "Inappropriate and harmful use" means use of a chemical which exceeds social or legal standards of acceptability, the outcome of which is characterized by three or more of the following:

- A. weekly use to intoxication;
- B. inability to function in a social setting without becoming intoxicated;
- C. driving after consuming sufficient chemicals to be considered legally impaired under Minnesota Statutes, section 169.121, whether or not an arrest takes place;
- D. excessive spending on chemicals that results in an inability to meet financial obligations;
- E. loss of friends due to behavior while intoxicated; or
- F. chemical use that prohibits one from meeting work, school, or social obligations.

Subp. 19. **Outpatient treatment.** "Outpatient treatment" means a licensed treatment program, the main purpose of which is to provide primary or post-primary treatment care, with a defined regimen that serves five or more individuals at one time who are experiencing problems related to chemical use. The regimen must provide a minimum of ten hours of total service time scheduled at a minimum of one hour per week and must provide time-limited therapeutic services on a nonresidential basis employing individual treatment plans to individuals receiving treatment.

Subp. 20. **Pathological use.** "Pathological use" means the compulsive use of a chemical characterized by three or more of the following:

- A. daily use required for adequate functioning;
- B. an inability to abstain from use;
- C. repeated efforts to control or reduce excessive use;
- D. binge use, such as remaining intoxicated throughout the day for at least two days at a time;
- E. amnesic periods for events occurring while intoxicated; and
- F. continuing use despite a serious physical disorder that the individual knows is exacerbated by continued use.

Subp. 21. **Physical deterioration.** "Physical deterioration" means a history of chemically related seizures, delirium tremens, pancreatitis, hepatitis, brain damage, or other medical problems associated with chemical use.

Subp. 22. **Primary residential treatment in a free-standing facility.** "Primary residential treatment in a free-standing facility" means a licensed chemical dependency residential program not located in an acute care hospital that provides intensive therapeutic services following detoxification. At least 30 hours a week per individual of chemical dependency services must be provided, including group and individual counseling, lectures, and other services specific to chemical dependency rehabilitation.

Subp. 23. **Primary residential treatment in a hospital setting.** "Primary residential treatment in a hospital setting" means a licensed chemical dependency residential program with 24-hour nursing surveillance and physician availability that provides

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PROPOSED RULES

intensive therapeutic services following detoxification in an acute care facility. At least 30 hours a week per individual of chemical dependency services must be provided, including group and individual counseling, lectures, and other services specific to chemical dependency rehabilitation.

Subp. 24. **Residential treatment.** "Residential treatment" means services that are provided in a residential facility as defined in Minnesota Statutes, section 245.782, subdivision 6.

Subp. 25. **Significant other.** "Significant other" means an individual not related by blood or marriage on whom another individual relies for emotional support.

9530.6610 COMPLIANCE PROVISIONS.

Subpart 1. **Assessment responsibility.** The county shall provide a chemical use assessment as provided in part 9530.6615 for all eligible persons who seek treatment for chemical abuse or dependency. Except as provided in subpart 4, the assessor shall complete an assessment summary on a form prescribed by the commissioner for each eligible person assessed for chemical dependency treatment services. The form shall be maintained in the client's case record.

Subp. 2. **County records.** The commissioner shall ensure compliance with parts 9530.6600 to 9530.6655 by requiring each county to have available for review records that include the following information:

A. documentation of compliance with parts 9530.6600 to 9530.6655 for all clients seeking treatment for chemical abuse or dependency, including copies of placement policies and procedures;

B. documentation of the qualifications of assessors in accordance with the standards established under part 9530.6615, subpart 2; and

C. documentation of a plan for eight hours of in-service training or continuing education concerning or related to assessment skills and treatment resources for all assessors on an annual basis.

Subp. 3. **Consequence of inappropriate placement.** After July 1, 1987, payment shall not be made for chemical dependency treatment services provided to clients who have not been assessed by the county as being in need of that level of service according to items A and B.

A. Reimbursement will be made from funds authorized under Minnesota Statutes, chapters 256B, 256D, and 256E only for the level of service found to be appropriate as a result of an assessment performed in compliance with parts 9530.6600 to 9530.6655.

B. A client placed in a state hospital to receive care and treatment for chemical abuse or dependency shall be assessed and placed according to parts 9530.6600 to 9530.6655.

Subp. 4. **County designee.** The county may contract with public, nonprofit, or proprietary agencies or individuals for the provision of assessments by a qualified assessor. An assessor under contract with the county shall have no direct shared financial interest or referral relationship resulting in shared financial gain with a treatment provider identified under part 9530.6600, subpart 2.

Subp. 5. **County designee variance.** The county may request a variance from the commissioner to approve a county designee that does not meet the criteria under subpart 4 if the conditions under item A or B exist. The request for a variance must be submitted in writing and must document that the conditions in item A or B exist.

A. A culturally specific service provider is available in the county and the service provider employs a qualified assessor.

B. The county does not employ a qualified assessor and the only qualified assessor available in the county has a direct shared financial interest or a referral relationship resulting in shared financial gain with a treatment provider.

A county designee providing assessments under a variance granted under subpart 6 shall not place clients in treatment. The county designee shall gather information required under part 9530.6620 and provide the local agency with the documentation required under part 9530.6615, subpart 4, items A to D. The local agency must make all placement decisions for clients assessed by a county designee under a variance.

Subp. 6. **Review of variance request; notification.** The commissioner shall review a variance request submitted by a county. If the county has demonstrated that a condition under subpart 5, item A or B exists, the commissioner shall approve the request. A variance requested and granted under subpart 5, item B, shall not extend for more than 12 months from the date of approval. If the commissioner denies a requested variance, the commissioner shall notify the county within 30 days of receipt of the variance request of the reasons for the denial.

9530.6615 CHEMICAL USE ASSESSMENTS.

Subpart 1. **Assessment mandate.** The county shall provide a chemical use assessment for each client seeking treatment for chemical dependency or chemical abuse problems before the client is placed in a program identified in part 9530.6600, subpart 2. The assessment must be done in a language understandable to the client and must be completed within the time limits specified under

part 9550.0070. The county shall provide interpreters for the hearing impaired and foreign language interpretive services when necessary.

Subp. 2. Staff performing assessment. Chemical use assessments must be conducted by qualified staff of the county or their designee in a manner that complies with parts 9530.6600 to 9530.6655. An individual is qualified to perform chemical use assessments if he or she annually completes a minimum of eight hours of in-service training or continuing education, documented under part 9530.6610, subpart 2, item C, and meets the criteria in one of the items listed below:

A. The individual is certified as a chemical dependency practitioner or chemical dependency counselor by the Institute for Chemical Dependency Professionals of Minnesota, Inc.

B. The individual has successfully completed 270 hours of classroom instruction in the subject area of chemical dependency, including 30 hours on chemical dependency assessments, and has successfully completed a one year internship or one year of work experience in chemical dependency assessments.

C. The individual has a baccalaureate degree in social work, nursing, sociology, human services, or psychology, has successfully completed 30 hours of classroom instruction on chemical dependency assessments, and has successfully completed a one year internship or one year of work experience in chemical dependency assessments.

D. The individual has completed the classroom training requirements in item B or C, and is supervised by an individual who meets the criteria in item A, B, or C.

Subp. 3. Method of assessment. The method of assessment must include a personal interview with the client in order to make a finding about the extent of the problem with chemical use. It must also include collateral contacts and a review of relevant records or reports regarding the client consistent with confidentiality and data privacy provisions in Minnesota Statutes, chapter 13; sections 144.343 and 254A.09; and Code of Federal Regulations, title 42, sections 2.1 to 2.67-1.

Subp. 4. Required documentation of assessment. The client's record shall contain the following:

- A. applicable placement information gathered in compliance with part 9530.6620, subpart 1;
- B. rating level of chemical involvement as defined in part 9530.6620, subpart 2;
- C. information gathered from collateral contacts, or documentation of why collateral contacts were not made;
- D. a copy of the form completed by the assessor under part 9530.6610, subpart 1;
- E. the desired outcome of the placement;
- F. a record of referrals, if other than a placement under parts 9530.6625 to 9530.6650; and
- G. a record of reports made in compliance with Minnesota Statutes, sections 626.556 and 626.557.

9530.6620 PLACEMENT INFORMATION.

Subpart 1. Level of care determination. The information in items A to I must be considered when determining the level of care for a client:

A. The client's chemical use, including amounts of chemical use, frequency of use, and periods of voluntary abstinence.

B. The client's age, sex, cultural background, sexual preference, the geographic location of the client's home, and other factors which determine whether exceptions under part 9530.6650 apply.

C. Specific behaviors exhibited by the client when under the influence of chemicals, such as verbal or physical fights, impaired social relationships, criminal behaviors, and other antisocial behaviors.

D. The client's current family status; the client's family history, including history or presence of neglect, or emotional, physical, or sexual abuse; the client's level of family support, the effects of the client's chemical use on other family members and significant others, and chemical use, abuse, or dependency among family members and significant others and its effects on the client.

E. Previous assessments or attempts at treatment of the client for chemical abuse or dependency, or mental illness.

F. The client's physical disorders documented by a physician or a mental disorder documented by a psychiatrist, licensed

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consulting psychologist, or licensed psychologist which may have contributed to the problems brought on by chemical misuse, or which in combination with chemical use, abuse, or dependency present serious health risks.

G. The client's arrests or legal interventions related to chemical use.

H. The ability of the client to seek, obtain, be trained for, and function appropriately in a work setting relative to the use, abuse, or dependency on chemicals.

I. The ability of the client to function in an educational setting, and changes in the client's level of functioning relative to use, abuse, or dependency on chemicals.

Subp. 2. Rating level of chemical involvement. Assessors shall consider the information gathered in accordance with subpart 1, rate the level of chemical involvement for each client as described in this subpart, and record a summary of this information as required under part 9530.6610, subpart 1. The level of chemical involvement must be used to determine the appropriate level of care for each client.

A. Level 0: no apparent problem.

B. Level 1: risk status. While demonstrating no current pattern of pathological use, the individual's behavior suggests that he or she is at risk of developing future problems associated with chemical use as evidenced by two or more of the following:

- (1) family or peer group glamorizes chemical use or tolerates chemical use related deviance;
- (2) time, money, and relationships are predominantly associated with chemical use;
- (3) at least two instances of blackouts; or
- (4) a history of alcoholism in one or more of the biological parents.

C. Level 2: chemical abuse. A pattern of inappropriate and harmful chemical use.

Chemical abuse includes inappropriate and harmful patterns of chemical use that are linked to specific situations in a client's life such as loss of a job, death of a loved one, or sudden change in life circumstances.

Chemical abuse does not involve a pattern of pathological use, but it may progress to pathological use.

D. Level 3: chemical dependency. A pattern of pathological use accompanied by the physical manifestations of increased tolerance to the chemical or chemicals being used or withdrawal syndrome following cessation of chemical use.

Chemical dependency includes a pattern of pathological use accompanied by the physical manifestations of increased tolerance to the chemical or chemicals being used or withdrawal syndrome following cessation of chemical use which has been interrupted by a period of incarceration or hospitalization.

9530.6625 PLACEMENT CRITERIA FOR OUTPATIENT TREATMENT.

A client shall be referred to outpatient treatment when the client is assessed as capable of functioning in the usual community environment in spite of the existing chemical use and meets the criteria in item A or B.

A. The client has been assessed as a chemical abuser under part 9530.6620, subpart 2, and is experiencing one or more of the following:

- (1) an arrest or legal intervention related to chemical use in the past year;
- (2) loss or impairment of employment or education due to chemical use; or
- (3) deterioration of family relationships due to chemical use.

B. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

9530.6630 PLACEMENT CRITERIA FOR PRIMARY RESIDENTIAL TREATMENT.

A client shall be placed in primary residential treatment in a free-standing facility or hospital setting when the client meets the criteria in items A, B, and C.

A. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

B. The client is unable to abstain from chemical use when the client is outside a residential facility that controls access to chemicals.

C. The client is experiencing one or more of the following:

- (1) loss or impairment of employment or education due to chemical use;
- (2) lack of family support;
- (3) an arrest or legal intervention related to chemical use in the past year; or

(4) the client has participated in a chemical dependency treatment program within the past year.

9530.6635 PLACEMENT CRITERIA FOR PRIMARY RESIDENTIAL TREATMENT IN A HOSPITAL SETTING.

A client assessed as a chemical abuser or as chemically dependent under part 9530.6620, subpart 2, and meeting the criteria of item A or B shall be placed in primary residential treatment in a hospital setting.

A. The client has a physical complication documented by a physician which requires more than detoxification, or brief or episodic nursing care.

B. The client has a mental disorder documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist which requires more than brief or episodic nursing care, but which does not otherwise prevent the client from participating in and benefitting from chemical dependency treatment.

9530.6640 PLACEMENT CRITERIA FOR EXTENDED CARE.

A client shall be placed in extended care if the client is assessed as chemically dependent under part 9530.6620, subpart 2, and is experiencing four or more of the following:

A. The client has participated in primary residential treatment within the past two years.

B. The client has a previous arrest or legal intervention related to chemical use in the past year.

C. The client has a history of physical deterioration due to chemical use documented by a physician.

D. The client lacks family support.

E. The client has a loss of employment or has experienced suspension or expulsion from school due to chemical use.

F. The client lacks recognition of the need to change harmful behaviors.

G. The client has a history of a mental disorder which is now under control as documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist.

9530.6645 PLACEMENT CRITERIA FOR A HALFWAY HOUSE.

A client shall be placed in a halfway house if the client has been assessed as chemically dependent under part 9530.6620, subpart 2; has either been discharged from a detoxification, primary treatment, or extended care program, or is currently participating in an outpatient program; and has experienced three or more of the following:

A. the client is unable to avoid chemical use related problems outside a residential facility that controls access to chemicals;

B. the client lacks family support;

C. the client has a loss of employment or education due to chemical use;

D. the client has an absence of friends and associates who advocate treatment and are willing to assist the client in achieving program goals; or

E. the client has a history of a mental disorder that is now under control as documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist.

9530.6650 EXCEPTIONS TO PLACEMENT CRITERIA.

Subpart 1. **General exceptions.** Clients may be placed in a program even though they do not meet the criteria established under parts 9530.6625 to 9530.6650 if one of the following exceptions applies:

A. outpatient treatment is not available within a 50-mile radius of the client's home, and the assessor and the client agree on an alternative placement;

B. the client and the assessor agree on placement in a culturally specific program, a culturally specific program at the appropriate level of care is not available, and the assessor and the client agree on placement in a culturally specific program at a different level;

C. a program is available to treat individuals of a specific age, sex, or sexual preference, and the client and the assessor agree on placement in that program;

D. the client is placed by juvenile court or probate court commitment; or

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E. the funding source available to the client does not reimburse for the appropriate level of care, and the assessor and the client agree on an alternative placement.

Subp. 2. **Adolescent exceptions to placement criteria.** An adolescent client assessed as a chemical abuser or as chemically dependent under part 9530.6620, subpart 2, may be placed in primary residential treatment when one or more of the following items can be documented:

A. the adolescent client has participated in an outpatient treatment program within the past year, and outpatient treatment proved insufficient to meet the needs of the client;

B. the adolescent client has a mental disorder documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist which in combination with chemical abuse or dependency presents serious health risks; or

C. the adolescent client meets the criteria under part 9530.6630.

When an adolescent client is assessed as a chemical abuser or as chemically dependent under part 9530.6620, subpart 2, and three or more of items A to G in part 9530.6640 can be documented, the adolescent client may be placed in extended care.

Subp. 3. **Exception to extended care criteria.** A client who meets the criteria for placement in an extended care program under part 9530.6640, has participated in an extended care program in the past year, and continues to experience problems due to chemical use may be placed in outpatient treatment or in a chemical dependency domiciliary facility licensed under parts 4625.0100 to 4625.2300 on the recommendation of the assessor. Residence in the facility must be based on a plan developed or approved by the county.

Subp. 4. **Exception to halfway house criteria.** A client who meets the criteria for placement in a halfway house under part 9530.6645 need not be placed in a halfway house if appropriate services are available in the community to meet the posttreatment needs of the client and the client has sufficient resources to use those services.

9530.6655 APPEALS.

Clients who are denied an assessment under part 9530.6615, denied placement, or who disagree with the level of chemical dependency care proposed shall have the right to a fair hearing under Minnesota Statutes, section 256.045. Notice of the right to appeal must be given in accordance with part 9550.0092.

Department of Human Services

Proposed Rules Relating to Medical Assistance

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 5, Ground Floor, State Office Building, 435 Park Street, St. Paul, Minnesota, 55155 on July 23, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.01 to 14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9505.0010 to 9505.0150 establish the conditions of client eligibility for the medical assistance program and establish the state and local agency responsibilities for the determination of eligibility for the program. Medical Assistance (MA) or Medicaid is the program authorized under Title XIX of the Social Security Act to pay for health services for low income individuals who are under 21; over age 65, blind, disabled, pregnant, or members of families with dependent children. MA is also authorized in Minnesota Statutes, Chapter 256B. Determinations of client eligibility are made by local agencies under the supervi-

sion of the Commissioner of Human Services. In Minnesota, for FY 1985, the monthly average number of MA eligible individuals included 56,500 AFDC recipients, 10,700 Minnesota Supplemental Assistance Recipients, and 76,400 individuals who were eligible to receive MA.

Proposed Minnesota Rules, parts 9505.0010 to 9505.0150 include sections on applicability; administration; definitions; automatic eligibility; citizenship requirement; residency requirement; MA ineligibility of persons detained by law; effect of public assistance status on MA eligibility; asset availability, limitations, and exclusions affecting homestead, household goods and furniture, personal property; consideration of joint tenancy and life estates; prohibition and consideration of transferred assets; income standards; calculation of net income after allowing deductions and exclusions from gross income; third party liability; assignment of rights; cooperation to establish paternity and to obtain medical care support; responsibility of relatives to pay for cost of medical care; cooperation with quality control review; the application process; local agency action on application and notice to client; re-determination of eligibility; the appeal process; wrongfully obtained assistance; payment for client access to medically necessary services; MA identification cards; and statement in languages other than English.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256B.04, subdivision 2.

The cost to local public bodies of implementing the proposed rule changes is estimated to be less than \$100,000 per year for the first two years following passage of the rule.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Minnesota Statutes, section 3.982. A free copy of the fiscal note may be obtained by contacting Eleanor Weber, Rules Unit, Department of Human Services, 6th Floor, Space Center, 444 Lafayette Road, St. Paul, Minnesota 55101, telephone (612) 297-4301.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Eleanor Weber. Additionally, a copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mary Kennedy, at 612/297-3200 or Barb Anderson at 612/269-7666 or Eleanor Weber at 612/297-4301.

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

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings 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 communication or urging others to communicate with public officials; or

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

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

Date: 2 June 1986

Leonard W. Levine, Commissioner
Department of Human Services

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PROPOSED RULES

Rules as Proposed (all new material)

MEDICAL ASSISTANCE ELIGIBILITY

9505.0010 APPLICABILITY.

Parts 9505.0010 to 9505.0150 govern the administration of the medical assistance program and establish the standards used to determine the eligibility of an individual to participate in the medical assistance program.

These parts must be read in conjunction with title XIX of the Social Security Act; Code of Federal Regulations, title 42; Minnesota Statutes, chapter 256B, and sections 256.01, subdivision 2, clauses (1) and (14), 256.01, subdivision 4, clause (4), 256.011, 256.045, 256.965, and 256.98.

9505.0011 ADMINISTRATION.

Subpart 1. **Compliance with state and federal law.** The commissioner shall cooperate with the federal government in order to qualify for federal financial participation in the medical assistance program. Changes to the medical assistance program required by state or federal law or by court order supersede parts 9505.0010 to 9505.0150.

Subp. 2. **Administrative relationships.** The medical assistance program is administered by local agencies under the supervision of the commissioner. The commissioner shall supervise the medical assistance program on a statewide basis so that local agencies comply with the standards of the program.

A local agency shall provide fair and equal treatment to an applicant or recipient according to statewide policies. The commissioner is authorized to correct a policy or practice that conflicts with statewide program requirements. A local agency shall comply with procedures and forms prescribed by the commissioner in bulletins and manuals to assure conformance with parts 9505.0010 to 9505.0150.

9505.0015 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of parts 9505.0010 to 9505.0150, the following terms have the meanings given to them in this part.

Subp. 2. **Aid to families with dependent children or AFDC.** "Aid to families with dependent children" or "AFDC" means the program established under Minnesota Statutes, sections 256.72 to 256.873; Code of Federal Regulations, title 45; and parts 9500.2000 to 9500.2880, as proposed at 10 SR 2107, on Monday, April 14, 1986, and adopted at

Subp. 3. **Applicant.** "Applicant" means a person who submits a written application to the local agency for a determination of eligibility for medical assistance.

Subp. 4. **Application.** "Application" means the applicant's written request for medical assistance as provided in part 9505.0085.

Subp. 5. **Application date.** "Application date" means the day on which a local agency or a designated representative of the commissioner receives, during normal working hours, a written request for medical assistance consisting of at least the name of the applicant, a means to locate the applicant, and signature of the applicant, provided the completed application form required in part 9505.0085 is submitted to the local agency within 30 days of the written request.

Subp. 6. **Asset.** "Asset" means any property that is owned and has monetary value. Examples of assets are negotiable instruments including cash or bonds, real and personal property, and rights that a person has in tangible or intangible property.

Subp. 7. **Assistance unit.** "Assistance unit" means those persons living together who are applying for or receiving medical assistance and whose income and assets are considered available to each other under part 9505.0075, subparts 2 and 5. A step-parent is not included in the same assistance unit as a stepchild.

Subp. 8. **Authorized representative.** "Authorized representative" means an individual authorized by the applicant or recipient to apply for medical assistance or perform duties required of the applicant or recipient by parts 9505.0010 to 9505.0150 on that person's behalf.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designated representative.

Subp. 10. **County of financial responsibility.** "County of financial responsibility" means the county that is obligated to pay on behalf of a recipient the portion of the nonfederal share of the medical assistance payments for the recipient's health services and the portion of the nonfederal share of administrative costs applicable to the recipient's case as specified in Minnesota Statutes, sections 256.965, 256B.02, subdivision 3, 256B.041, subdivisions 3 and 7, and 256B.19, subdivision 1.

Subp. 11. **County of service.** "County of service" means the county where the applicant or recipient resides. However, if the applicant or recipient resides in a state hospital, the county of service is the county of financial responsibility.

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

Subp. 13. **Earned income.** "Earned income" means wages, salary, commission, or other benefits received by a person as monetary compensation from employment or self-employment.

Subp. 14. **Eligibility factors.** "Eligibility factors" means all the conditions, limits, standards, and required actions in parts 9505.0010 to 9505.0120 that the applicant or recipient must satisfy in order to be eligible for medical assistance.

Subp. 15. **Excluded time.** "Excluded time" means time an applicant spends in one of the facilities listed in Minnesota Statutes, section 256B.02, subdivision 2.

Subp. 16. **General assistance medical care or GAMC.** "General assistance medical care" or "GAMC" means the program established under Minnesota Statutes, section 256D.02, subdivision 4a.

Subp. 17. **Gross earned income.** "Gross earned income" means all earned income before any deduction, disregard, or exclusion.

Subp. 18. **Gross income.** "Gross income" means all earned and unearned income before any deduction, disregard, or exclusion.

Subp. 19. **Health maintenance organization.** "Health maintenance organization" means a corporation as defined in Minnesota Statutes, section 62D.02, subdivision 4.

Subp. 20. **Health services.** "Health services" means the services and supplies furnished to a recipient by a provider for a health related purpose as specified in Minnesota Statutes, section 256B.02, subdivision 8.

Subp. 21. **Hospital.** "Hospital" means an acute care institution licensed under Minnesota Statutes, sections 144.50 to 144.58, defined in Minnesota Statutes, section 144.696, subdivision 3, and maintained primarily for the treatment and care of persons with disorders other than tuberculosis or mental diseases.

Subp. 22. **Income.** "Income" means cash or other benefits, whether earned or unearned, received by or available to an applicant or recipient and not determined to be an asset under parts 9505.0058 to 9505.0064 or part 9505.0065.

Subp. 23. **In-kind income.** "In-kind income" means a benefit other than cash that provides food, shelter, clothing, transportation, or health service and is not determined to be an asset under parts 9505.0058 to 9505.0064 or part 9505.0065.

Subp. 24. **Inpatient.** "Inpatient" means a person who has been admitted to an inpatient hospital and has not yet been formally discharged. Inpatient applies to a person absent from a hospital on a pass ordered by a physician. For purposes of this definition, a person absent from the hospital against medical advice is not an inpatient during the absence.

Subp. 25. **Life estate.** "Life estate" means an interest in real property with the right of use or enjoyment limited to the life or lives of one or more human beings that is not terminable at any fixed or computable period of time.

Subp. 26. **Living together.** "Living together" refers to the relationship of two or more persons who have the same residence. The term applies only to eligibility determinations involving spouses and eligibility determinations involving parents living with a child under age 21. The presumption that two persons who have the same residence are living together may be rebutted through submission of convincing evidence to the contrary. The following limitations also apply:

A. An absence from the residence for a period that lasts less than a full calendar month does not interrupt living together.

B. When a child alternates living together with each of his or her parents who live apart, the child is considered to live with the parent with whom it is anticipated the most time will be spent. If the child spends equal time with both parents, the child is considered to live with the parent with whom the child is living on the date of application.

C. A person and spouse who reside in the same long-term care facility do not live together regardless of whether they occupy the same room.

D. A child who has remained hospitalized without interruption for a full calendar month beginning with the day of birth is not considered to live together with the parents.

Subp. 27. **Local agency.** "Local agency" means a county or multi-county agency that is authorized under Minnesota Statutes, sections 393.01, subdivision 7 and 393.07, subdivision 2, as the agency responsible for determining eligibility for the medical assistance program. "Local agency" is used in parts 9505.0010 to 9505.0150 to refer to the local agency of the county of service unless otherwise specified.

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Subp. 28. **Long-term care facility.** "Long-term care facility" means a residential facility certified by the Minnesota Department of Health as a skilled nursing facility or as an intermediate care facility including an intermediate care facility for the mentally retarded.

Subp. 29. **Market rent.** "Market rent" means the rental income that a property would most probably command on the open market in an arm's length negotiation as shown by current rentals being paid for comparable space of comparable worth.

Subp. 30. **Market value.** "Market value" means the most probable price in terms of money that a property should bring in a competitive and open market under all conditions requisite to a fair sale. The value on the most recent property tax statement is presumed to be the market value unless the person or the local agency provides convincing evidence to overcome the presumption.

Subp. 31. **Medical assistance or MA.** "Medical assistance" or "MA" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 32. **Medicare.** "Medicare" means the health insurance program for the aged and disabled under title XVIII of the Social Security Act.

Subp. 33. **Minnesota supplemental aid or MSA.** "Minnesota supplemental aid" or "MSA" means the program established under Minnesota Statutes, sections 256D.35 to 256D.43.

Subp. 34. **Net income.** "Net income" means the income remaining after applicable disregards, exclusions, and deductions are subtracted from gross income.

Subp. 35. **Net income from rental property.** "Net income from rental property" means the remainder after subtracting the deductions in part 9505.0065, subpart 8, from gross rental income produced by property.

Subp. 36. **Parent.** "Parent" means the birth or adoptive mother or father of a child.

Subp. 37. **Person.** "Person" means an applicant or recipient of medical assistance.

Subp. 38. **Prior authorization.** "Prior authorization" means the written approval and issuance of an authorization number by the department to a provider before the provision of a covered health service, as specified in part 9505.5010.

Subp. 39. **Provider.** "Provider" means a vendor as specified in Minnesota Statutes, section 256B.02, subdivision 7, that has signed an agreement approved by the department for the provision of health services to a recipient.

Subp. 40. **Real property.** "Real property" means land and all buildings, structures, and improvements or other fixtures on it, all rights and privileges belonging or appertaining to it, all manufactured homes attached to it on permanent foundations, and all trees, mines, minerals, quarries, and fossils on or under it.

Subp. 41. **Recipient.** "Recipient" means a person who has been determined by the local agency to be eligible for the medical assistance program.

Subp. 42. **Residence.** "Residence" means the place a person uses, and intends to continue to use for the indefinite future, as his or her primary dwelling place.

Subp. 43. **Responsible relative.** "Responsible relative" means the spouse of a medical assistance recipient or applicant or the parent of a child under age 18 who is a medical assistance recipient or applicant.

Subp. 44. **Spend-down.** "Spend-down" means the process by which a person who has income in excess of the income standard allowed under part 9505.0065, subpart 1 becomes eligible for medical assistance as a result of incurring medical expenses that are not covered by a liable third party and that reduce the excess income to zero.

Subp. 45. **State medical review team.** "State medical review team" means those physicians and social workers who are under contract with the department to review a medical and social history to determine a person's disability within the scope of the regulations of the Social Security Administration.

Subp. 46. **Third party payer.** "Third party payer" refers to a person, entity, agency, or government program other than Medicare or the medical assistance program, that has a probable obligation to pay all or part of the costs of a recipient's health services. Examples are an insurance company, health maintenance organization, the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), workers' compensation, and defendants in legal actions arising out of an accidental or intentional tort.

Subp. 47. **Title XIX state plan.** "Title XIX state plan" refers to the document submitted for approval to the Health Care Financing Administration defining the conditions of medical assistance program eligibility and services authorized by title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 48. **Unearned income.** "Unearned income" means income other than earned income as defined in subpart 13.

Subp. 49. **Wrongfully obtaining assistance.** "Wrongfully obtaining assistance" means:

A. action by an applicant or recipient of willfully or intentionally withholding, concealing, or misrepresenting information which results in a person's receipt of medical assistance in excess of the amount for which he or she is eligible under the program and the eligibility basis claimed by the applicant or recipient;

B. receipt of real or personal property by an individual without providing reasonable compensation and for the known purpose of creating an applicant's or recipient's eligibility for medical assistance; or

C. action by an individual of conspiring with or knowingly aiding or abetting an applicant or recipient to wrongfully obtain medical assistance.

9505.0016 AUTOMATIC MEDICAL ASSISTANCE ELIGIBILITY.

A person receiving public assistance as in part 9505.0055 is eligible for medical assistance without further determination provided the person complies with parts 9505.0070 and 9505.0071. However, a person who is not eligible for public assistance may apply for and shall be granted medical assistance if the person meets the requirements of parts 9505.0010 to 9505.0150.

9505.0020 CITIZENSHIP REQUIREMENT.

Eligibility for medical assistance is limited to citizens of the United States and to aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under the color of the law.

9505.0030 RESIDENCY REQUIREMENTS.

Subpart 1. **Minnesota residency required.** Eligibility for medical assistance is limited to Minnesota residents or persons presumed to be Minnesota residents under Code of Federal Regulations, title 42, section 435.403. A Minnesota resident is:

A. a person who establishes a residence in Minnesota during the month for which eligibility is considered and who does not have a residence outside of Minnesota;

B. a person who is determined to be a Minnesota resident under Code of Federal Regulations, title 42, section 435.403; or

C. a migrant worker as specified in Minnesota Statutes, section 256B.06, subdivision 3.

Subp. 2. **County of financial responsibility.** Except as provided in items A to D, the county of the applicant's residence on the date of application is the county of financial responsibility. If the prior residence was not in a Minnesota county, or the county of residence cannot be determined, the county of residence is the county in which the person is residing at the time of application.

A. If the applicant's current residence falls within the definition of excluded time, the county of financial responsibility is the county of the applicant's residence immediately before the applicant began his or her current residence.

B. An infant who has resided only in a facility falling within the definition of excluded time is the responsibility of the county that would have been responsible if eligibility could have been established with the birth mother.

C. If a person receives a grant from the aid to families with dependent children program, Minnesota supplemental aid program, or general assistance program, the county of financial responsibility is the county that pays that grant.

D. A person's county of financial responsibility remains the same until the person is ineligible for medical assistance for more than one calendar month.

Subp. 3. **Dispute about county of financial responsibility.** Eligibility must not be delayed or denied because of a dispute over the determination of the county of financial responsibility. The local agency in the county of service must take the person's application and determine eligibility of the person, and open the case if the person is found eligible. A local agency involved in a dispute about the county of financial responsibility may request a written determination about the county of financial responsibility from the department. A local agency may appeal the written determination of the department to the district court under Minnesota Statutes, section 256.045.

9505.0040 AGE AND HEALTH REQUIREMENTS.

Eligibility for medical assistance is limited to persons described in items A to K:

A. A person under 21 years of age.

B. A person 21 years of age but less than 22 years of age who has been receiving inpatient psychiatric care continuously since his or her 21st birthday.

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C. A person at least 65 years of age.

D. A person who satisfies the requirements of the aid to families with dependent children program in regard to caretaker relative status.

E. A person determined to be disabled for purposes of the retirement survivors and disability or supplemental security income program.

F. A person determined to be disabled by the department's state medical review team.

G. A person determined to be legally blind by a licensed physician or licensed optometrist on the basis of having a field of vision no greater than 20 degrees or best corrected visual acuity of 20/200 or less.

H. A person who has received or has been eligible to receive medical assistance as a disabled or blind person for each consecutive month since December 1973.

I. A woman whose pregnancy is certified by a physician or certified nurse midwife and who except for income and assets would be eligible for the aid to families with dependent children program if the child was born. Status in this category begins on the first day of the month of the estimated date of conception and ends 60 days postpartum.

J. A woman whose pregnancy is certified by a physician or certified nurse midwife and whose unborn child would be eligible for medical assistance if the child was born. Status in this category begins on the first day of the month of the estimated date of conception and ends 60 days postpartum.

K. Notwithstanding parts 9505.0010 to 9505.0150, a child born on or after October 1, 1984, is automatically eligible for one year following birth if the mother remains a recipient and the child lives with the mother.

9505.0044 INFORMATION ABOUT SOCIAL SECURITY NUMBER.

An applicant, the applicant's authorized representative, or the applicant's responsible relative shall give the local agency the applicant's social security number at the time of application for medical assistance. A person who does not have a social security number at the time of application must apply for a number in order to be eligible for medical assistance. However, a child eligible for medical assistance under part 9505.0040, item K, is not required to apply for a social security number while the child remains eligible under item K.

9505.0045 RESIDENTS OF INSTITUTIONS FOR TREATMENT OF MENTAL DISEASES.

A resident of an institution for the treatment of mental diseases is eligible for medical assistance only if he or she is receiving inpatient psychiatric care in a psychiatric facility accredited by the joint commission on accreditation of hospitals, and meets one of the conditions listed in part 9505.0040, items A to C. Notwithstanding the other provisions of parts 9505.0010 to 9505.0150, a person in an institution for the treatment of mental diseases who is over 21 years of age but less than 65 years of age is only eligible for health services before the date of admittance and after the date of discharge from an institution for the treatment of mental diseases. For purposes of this part, "institution for the treatment of mental diseases" means those facilities defined in Code of Federal Regulations, title 42, section 435.1009.

9505.0050 PERSONS DETAINED BY LAW.

A person, regardless of age, who is detained by law in the custody of a correctional or detention facility as a person accused or convicted of a crime is not eligible for medical assistance. A resident of a correctional facility who is furloughed by the corrections system to a medical facility for treatment or to a residential habilitation program or halfway house without a formal release on probation, parole, bail, his or her own recognizance, or completion of sentence or a finding of not guilty is not eligible for medical assistance.

A person admitted as an inpatient to a hospital, other than a state hospital, on a hold order issued on a civil basis is not considered detained by law.

9505.0055 EFFECT OF PUBLIC ASSISTANCE STATUS ON MEDICAL ASSISTANCE ELIGIBILITY.

Subpart 1. **Recipient of AFDC or MSA with SSI.** A person who is a recipient of aid to families with dependent children is eligible for medical assistance. A person who is a recipient of Minnesota supplemental aid in conjunction with supplemental security income is eligible for medical assistance, except for those persons eligible for Minnesota supplemental aid because the local agency waived excess resources under the Minnesota supplemental aid provisions.

Subp. 2. **Suspension from AFDC.** A person suspended from aid to families with dependent children remains eligible for medical assistance during the period of suspension when the suspension is caused by receipt of an extra paycheck or other temporary increase in earned income.

Subp. 3. **Termination from AFDC.** A person terminated from aid to families with dependent children remains eligible for medical assistance under the conditions in items A to C:

A. If termination from aid to families with dependent children was caused by an increase in the person's wages or hours of work, or by an increase in the amount of child support payments, the person remains eligible for medical assistance for four months after termination if the person received aid to families with dependent children in at least three of the six months immediately before termination of the grant and the person's increased earned income or child support continues for the four-month period.

B. If termination from aid to families with dependent children was caused by the person's loss of the disregard of \$30 or the disregard of \$30 and one-third of earned income, the person remains eligible for nine months after termination. The person is also eligible for an additional three months after the nine months if the local agency determines that the assistance unit would remain eligible for aid to families with dependent children if the disregard of \$30 or \$30 and one-third was applied to the earned income.

C. If termination from aid to families with dependent children was caused by deeming or allocating income of stepparents, grandparents, or siblings, the person must be given a termination notice allowing one month of medical assistance eligibility after the termination of aid to families with dependent children. In order to remain continuously eligible for medical assistance beyond the one month, the person must be eligible under parts 9505.0010 to 9505.0150 and must return the application supplied with the termination notice within ten days after the effective date of the termination.

Subp. 4. **Adopted children.** A child under age 18 whose adoption is subsidized by state funds under Minnesota Statutes, section 259.40 or funds from title IV-E of the Social Security Act is eligible for medical assistance upon application and verification of subsidized adoption status. The local agency shall request the adoptive parent to comply with the requirements of parts 9505.0070 and 9505.0071.

Subp. 5. **Child in foster care.** A child whose foster care is paid under title IV-E of the Social Security Act is eligible for medical assistance upon application and verification of foster care status.

Subp. 6. **Person receiving supplemental security income.** A person receiving supplemental security income must make a separate application for the medical assistance program except as in subpart 1.

9505.0058 ASSETS; HOMESTEAD AND HOUSEHOLD GOODS AND FURNITURE.

Subpart 1. **General exclusion.** Except as provided in subpart 2, a person's homestead as defined in Minnesota Statutes, section 259B.06, subdivision 1, and household goods and furniture used in the person's residence must be excluded from consideration as assets.

Subp. 2. **Exclusion for person residing in long-term care facility.** The homestead and household goods and furniture of a person residing in a long-term care facility are excluded if the homestead is used as a primary residence by the person's spouse, the person's child under age 18, or the person's disabled child of any age. They are also excluded for the first six calendar months of the person's stay in the long-term care facility. The local agency shall notify the person in writing that the homestead and household goods and furniture must be reduced to an amount within limits or excluded on another basis if the person expects to remain in the long-term care facility for a period longer than six months. The agency must give this notice at the later of the time when the person enters the facility or the determination of eligibility, but no later than the last day of the fifth month of the person's stay in the facility.

9505.0059 ASSETS; REAL PROPERTY OTHER THAN HOMESTEAD.

Subpart 1. **Definitions.** For the purposes of parts 9505.0059 to 9505.0064, the following terms have the meanings given to them in this part.

A. "Equity" means the property's current market value less any encumbrances.

B. "Not salable" means that:

(1) two sources agree that the property is not salable due to a specified condition; or

(2) an actual sale attempt was made at a price not more than an estimate of the highest current market value obtained within six months of application or since the last determination of eligibility, but no offer to purchase was received.

For purposes of subitems (1) and (2), the source of information must be from the same geographic area as the property and knowledgeable about the value of the type of property offered for sale.

Subp. 2. **Consideration of real property.** A person who owns real property is not eligible for medical assistance unless the property is excluded from consideration as an asset under subpart 3 or part 9505.0058.

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Subp. 3. **Exclusions other than homestead and household goods and furniture.** Real property in items A to D must be excluded from consideration as an asset.

A. Real property that is rental property as defined in part 9505.0015, subpart 35, is leased at a market rent, and produces a net income provided the amount of the person's equity in the property is less than \$6,000 and the net income received by the person is at least six percent of the amount of the person's equity.

B. Real property on or in which the person operates a business that is anticipated to produce a net income under part 9505.0065, subpart 9 provided the amount of the person's equity in the property is less than \$6,000 and the net income received by the person is at least six percent of the amount of the person's equity.

C. Real property that is not salable.

D. Real property other than property in items A to C if the equity in the real property when combined with the equity in the homestead does not exceed \$15,000.

9505.0060 ASSETS; PERSONAL PROPERTY.

Subpart 1. **Definition.** For purposes of this part, "personal property" means all property other than real estate. Examples are cash including savings and checking accounts; cash surrender value of insurance; prepaid burial accounts; individual retirement or Keogh accounts; stocks and bonds; certificates of deposit; investments in diamonds, gold, and other precious metals or jewels; trust funds; motor vehicles; boats and recreational vehicles; livestock; business inventory and equipment; lump sum payments; contracts for deed; windfalls; gifts and inheritances other than real estate; and retroactive payments of benefits from Social Security or the Veterans Administration.

Subp. 2. **Consideration of personal property; general.** A person who owns personal property in excess of the limits established in Minnesota Statutes, sections 256B.06, subdivision 1, clause (13) and 256B.07 and this part is not eligible for medical assistance unless the personal property is exempt from consideration as an asset.

Subp. 3. **Consideration of trust funds.** Trust funds shall be considered available as specified in items A to C. The trusts must also be evaluated under part 9505.0064.

A. A beneficiary's interest in a trust fund is subject to the personal property limitation under Minnesota Statutes, section 256B.06, subdivision 1, clause (13) and is considered to be available unless it can be affirmatively demonstrated through court order that the trust fund cannot be made available to meet the individual's medical needs. If the county attorney advises the local agency that the money cannot be made available and the agency decides not to pursue court action, the local agency shall refer the matter to the department.

B. Trusts established by the person or the person's spouse under which the person may be the beneficiary of all or part of the payments from the trust and the distribution of the payments is determined by one or more trustees who may exercise discretion about the distribution to the person shall be considered available assets. This item applies regardless of whether the trust is irrevocable or is established for purposes other than to enable a person to qualify for medical assistance or whether the discretion of the trustees is exercised.

C. A trust fund established by the person on behalf of another individual within 24 months before application or during a period of eligibility shall be considered a transferred asset under part 9505.0064.

Subp. 4. **Personal property exempt from consideration.** The following items of personal property are exempt from consideration:

A. Liquid assets in the amount specified in Minnesota Statutes, section 256B.06, subdivision 1, clause (13).

B. The person's wearing apparel and personal jewelry.

C. One motor vehicle as defined in Minnesota Statutes, section 256B.06, subdivision 1, clause (13)(b) and used primarily for the person's benefit that has a market value of less than \$4,500, is necessary to obtain medically necessary health services, is necessary for employment, is modified for operation by or transportation of a handicapped person, or is necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. Other motor vehicles are counted to the extent of the person's equity against the asset limit in item A.

D. Cash received from the sale of a person's homestead that is applied to the purchase of another homestead within 90 days.

E. One burial plot and inscribed gravemarker for the person and each legal dependent of the person.

F. Capital and operating assets of a trade or business that the local agency determines is necessary to the person's ability to earn an income. Examples are machinery, livestock, business inventory, and equipment.

G. Real property being sold on a contract for deed to the extent the net present value of the contract in combination with other liquid assets does not exceed the limitations in item A or the contract is not salable.

H. Insurance settlements to repair or replace damaged, destroyed, or stolen property that is exempt from consideration. These settlements are excluded for a period of six months.

Subp. 5. **Separate account for excluded funds.** Funds excluded from consideration as an asset by parts 9505.0058 to 9505.0062 and 9505.0065 must be placed in an account separate from other accounts in order to retain the exclusion. Upon application and redetermination of eligibility, the local agency must inform the person in writing of the requirement to place the excluded funds in a separate account.

9505.0061 ASSETS; AVAILABILITY.

In addition to assets considered available under parts 9505.0058 to 9505.0064, the local agency must consider assets as specified in items A to E.

A. The local agency may not consider any asset that is not available to the person. Examples of an asset not available to a person are an estate that has not been probated; property owned together with one or more other individuals which cannot be liquidated or reduced to cash through the exercise of the person's legal rights; an asset of a person who is determined incompetent by the court and whose guardianship is pending; and an asset frozen by a foreign government.

B. A local agency must consider as available an asset that has been transferred without adequate compensation as described in part 9505.0064.

C. A local agency must consider as available an asset that the person has failed to make available for purposes of medical assistance eligibility. An example of a person's failure to make an asset available occurs when the person refuses to accept his or her share of an inheritance.

D. A local agency must consider as available an asset that a person receives in a tort settlement, whether the settlement is entered into by the person or the person's guardian, that is structured to be paid over a period of time. The local agency shall evaluate the asset on the basis of the discounted net present value of all funds that will be deposited at any time in the future. In determining present value, an annual interest rate of six percent shall be used. This item applies only to a structured settlement entered into after the effective date of this item. The period of ineligibility resulting from the value of a structured settlement shall be calculated according to part 9505.0064, subpart 2, item C.

E. The local agency must consider as available an individual retirement or Keogh account. The local agency shall evaluate individual retirement and Keogh accounts on the basis of the funds deposited in the account and the interest accrued on the funds less the penalty for early withdrawal.

9505.0062 ASSETS; JOINT TENANCY; LIFE ESTATE.

Subpart 1. **Asset in joint tenancy.** The owner of an asset in joint tenancy must be considered to own an equal share of the value of the asset, but the local agency or the joint tenant may prove ownership of a greater or lesser amount. An owner of an asset as a tenant in common owns a prorata share of the property value.

Subp. 2. **Valuation of property held in life estate.** Ownership of a life estate is ownership of real property and makes a person ineligible for medical assistance unless the life estate is excluded from consideration as an asset under parts 9505.0058 and 9505.0059. The value of the life estate is determined by multiplying the amount of the equity of the real property by the value listed on Table A, Single Life, Unisex, Ten Percent, showing the present worth of an annuity, of a life interest, and of a remainder interest, found at Code of Federal Regulations, Title 26, section 20.2031-7, for the age of the holder of the life estate. The holder of the life estate is entitled to all rental income produced by the life estate. The rental income is computed according to part 9505.0065, subpart 7. If the property is sold not subject to the life estate, the proceeds of the sale attributed to the holder of the life estate are the price for which the property was sold less any encumbrances and reasonable sale costs multiplied by the value listed on Table A, Single Life, Unisex, Ten Percent, showing the present worth of an annuity, of a life interest, and of a remainder interest, for the age of the holder of the life estate.

9505.0063 EXCESS ASSETS.

Subpart 1. **Reduction of excess assets.** Assets in excess of the limits in parts 9505.0058 to 9505.0062 may be reduced as in items A to D so that a person is eligible for medical assistance.

A. If the assets of an applicant seeking retroactive eligibility under part 9505.0110, subpart 1 exceed the limits in parts 9505.0058 to 9505.0062, the applicant may apply the excess assets toward health service bills incurred in the retroactive period, that

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is, in the three calendar months before the month of application. When the excess is spent, the applicant's eligibility begins with the next dollar of health service bills incurred in the retroactive period. The applicant shall first spend excess assets to pay health service bills and then spend down income as required in part 9505.0065, subpart 11.

B. If the assets of an applicant seeking eligibility beginning in the month of application exceed the limits in parts 9505.0058 to 9505.0062, the applicant may reduce the assets to within limits by paying bills for health services that would otherwise be paid by medical assistance or by a means other than a transfer of property prohibited under part 9505.0064.

C. If the assets of a recipient increase in value beyond the limits in parts 9505.0058 to 9505.0062, the recipient must report the excess assets to the local agency within ten days. Upon notice of excess assets, the local agency shall issue a notice of termination according to part 9505.0125, subpart 1, item C. The recipient remains eligible for medical assistance only if he or she:

- (1) uses the excess to repay the state or local agency for medical assistance already received; or
- (2) reduces the excess by a means other than a transfer of property prohibited under part 9505.0064.

To remain eligible, the recipient must take one of these steps and notify the local agency before the effective date of the notice of termination.

D. Health service bills used to reduce excess assets in items A and B must not be used to meet income spend-down requirements.

Subp. 2. **Interim assistance pending reduction of excess real property.** The amount of a person's equity in real property that is not excluded under parts 9505.0058 and 9505.0059 and which is legally available must be applied against the limits in part 9505.0060. When the amount of the person's equity exceeds the limits in part 9505.0060, the applicant or recipient may qualify to receive nine months of assistance if he or she makes a good faith effort to sell the property and signs a legally binding agreement to repay the amount of assistance issued during that nine months. If the property is sold during the nine months and the net proceeds are less than the amount of the assistance issued, the amount that must be repaid shall be the net proceeds from the sale. If the property is sold after the nine-month period, the full amount of assistance received during the nine-month period must be considered an overpayment and is subject to recovery by the department.

9505.0064 TRANSFERRED ASSETS.

Subpart 1. **Transferred assets; general.** A person's own assets and the assets of a responsible relative under part 9505.0075 must be used to pay for the person's health services until the assets are reduced to within the limits in parts 9505.0058 to 9505.0060. The value of an asset that is not excluded under parts 9505.0058 to 9505.0060 and that a person or the person's authorized representative transfers or sells for less than market value within the 24 months preceding application or during the period of medical assistance eligibility shall be considered available as an asset in determining the person's eligibility.

A transfer of a nonexcluded asset for less than market value within 24 months preceding application or during the period of medical assistance eligibility is presumed to be for the purpose of establishing or maintaining medical assistance eligibility, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. Convincing evidence must include evidence that the person had no health or economic reason to believe that public money would be needed for health service bills or that nursing home care would be needed. A transfer for purposes of preserving an estate for heirs is the same as a transfer for the purpose of establishing or maintaining medical assistance eligibility.

Subp. 2. **Treatment of transferred assets.** Transfers of assets must be treated as follows:

A. An applicant must declare any transfer or sale of an asset that took place within 24 months preceding the application. An applicant whose application is pending or a recipient must declare all asset transfers or sales within ten days of the transfer or sale.

B. A person who has transferred or sold an asset shall provide the local agency a description of the asset, the encumbrances on the asset, its market value at the time of the transfer or sale, the name of each entity who received the asset, the specific circumstances under which the asset was transferred or sold, and the amount and kind of compensation received.

(1) For purposes of this item, the value of the transferred or sold asset that will be applied against the person's asset limitation is the market value at the time of the transfer or sale less the encumbrances on the asset and the compensation received.

(2) Services must not be considered compensation for transfer or sale of an asset unless the compensation was stipulated in a notarized written agreement which was in existence when the service was performed. The agreement must state the service performed and the rate of reimbursement. The rate of reimbursement must be consistent with a charge for a similar service performed in the community. For purposes of this subitem, "services" means labor performed by one individual for another individual or entity.

(3) Goods are not considered compensation unless supported by contemporaneous receipts or other evidence of expenditure.

(4) Purchase of paid-up life insurance with no cash surrender value available to the person while the person is a recipient

of medical assistance or within 24 months before application for medical assistance must be considered a transfer of an asset without adequate compensation under this subpart.

C. A person who has transferred or sold a nonexempt asset without receiving adequate compensation as in this subpart is ineligible for medical assistance as specified in subitems (1) to (4):

(1) The total amount transferred in any month must be considered a single transfer.

(2) The number of calendar months of ineligibility must be calculated by dividing the amount transferred by the statewide average monthly per person rate for skilled nursing facilities determined under part 9510.0010 [Emergency]. For a partial month of ineligibility, the amount transferred shall affect eligibility by a reduction in the amount of medical assistance for the first month of eligibility equal to the fractional amount. The average rate per person used must be that in effect for the completed calendar year before the month of application or the most recent redetermination under part 9505.0115. The period of ineligibility begins with the later of the month of the transfer or the month in which the transfer becomes known to the local agency if the transfer was not reported at the time of application or when it occurred.

(3) If a person makes transfers in more than one month, the ineligibility period for each transfer must be calculated independently. When multiple transfers result in overlapping periods of ineligibility, the total length of the period of ineligibility is the sum of the periods.

(4) The person remains ineligible until the calculated ineligibility period expires. Reapplication does not affect ineligibility periods.

D. A homestead transferred or sold for less than adequate compensation as in item B by a recipient or applicant who currently resides in a long-term care facility or a person who enters a long-term care facility within 24 months of the sale or transfer shall be considered available as an asset unless one of the conditions in subitems (1) to (4) applies:

(1) The person's attending physician certifies that the person can reasonably be expected to resume permanent residence outside of a long-term care facility within six calendar months after entering the long-term care facility. The prognosis must be in writing from the person's physician.

(2) Title to the home was transferred to the person's spouse, child who is under age 21, or child who is blind or permanently and totally disabled as defined by the medical assistance program in part 9505.0040, items E, F, G, and H.

(3) A satisfactory showing is made that the person intended to dispose of the home at market value or for other consideration equal to market value.

(4) The local agency determines that denying eligibility would cause an imminent threat to the person's health and well-being. The denial of medical assistance must not be construed as such a threat if care of the person will be provided through other means.

When eligibility has been granted under this subitem, a cause of action exists against the person or persons who received the transferred property.

The conditions in this item apply to real property that was a person's homestead at the time the person entered a long-term care facility, even if the homestead is excluded on another basis after the person has entered the long-term care facility.

E. Notwithstanding any other provision of this subpart, an applicant residing in a long-term care facility may transfer liquid assets to his or her spouse if the conditions in subitems (1) to (3) are satisfied:

(1) the spouse is not a medical assistance applicant or recipient;

(2) the amount transferred, when added to the spouse's liquid assets totals \$10,000 or less at the time of the transfer; and

(3) the transfer occurs between the first of the month before the month of application and the later of 15 days after the date the local agency notifies the applicant of the need to reduce assets to gain eligibility, or the date of the local agency's action on the application. For purposes of this subitem, "application" means the initial approved application.

Subp. 3. **Consideration of loans as transfers of property.** An applicant or recipient who lends property is considered to have transferred the property. The local agency shall evaluate the transaction as a transfer of property under subparts 1 and 2. If the person receives adequate compensation for the loan or the person made the loan more than 24 months before the person's application for medical assistance, the local agency shall examine the terms of the loan for recall rights. Adequate compensation must be shown by

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a written loan agreement and receipt of payments according to the schedule in the agreement. If the loan is payable on demand, is due, or is otherwise negotiable, the property is presumed to be an available asset to the person. This presumption may be overcome by convincing evidence presented by the person that the loan will not be repaid. Interest payments made by the borrower to the person are considered income in the month received and an asset if retained. Principal payments made by the borrower to the person are considered as assets.

9505.0065 INCOME.

Subpart 1. Income eligibility standard. The income standard for medical assistance eligibility is an annual net income based on family size according to Minnesota Statutes, section 256B.06, subdivision 1, clause (14). The family size for this subpart is the sum of all persons in the assistance unit plus the other persons who reside with the applicant or recipient, for whom the applicant or recipient is responsible, and whose income is considered available under part 9505.0075. The conditions in items A to C must be considered in determining the eligibility of the person:

A. An applicant or recipient shall apply for all benefits that will increase his or her net income as determined for medical assistance eligibility or assist in the payment of health service expenses. Examples are veterans administration aid and attendance allowance, workers' compensation benefits, annuities, pensions, and other benefits for which a person may be eligible upon application.

B. Net income above the medical assistance program standard set according to Minnesota Statutes, section 256B.06, subdivision 1, clause (14), is presumed to be available to meet health service expenses. A person with an annual net income above the standard may qualify by meeting a spend-down.

C. All income unless excluded under subpart 3 must be counted in the calendar month received. Income becomes an asset if it is retained beyond the month in which it is received, unless this part specifically states otherwise.

Subp. 2. Calculation of net income. Net income of an applicant, a recipient, a member of an assistance unit, and the assistance unit must be calculated as specified in items A to F.

A. Calculate separately gross earned income, gross unearned income, and gross self-employment income.

B. Subtract income that is excluded under subpart 3 as appropriate from gross earned income, gross unearned income, or gross self-employment income.

C. Subtract from gross earned income remaining after item B is completed, the earned income disregards allowed under subpart 4, and applicable employment expenses allowed under subparts 5 and 6.

D. Subtract from gross self-employment income remaining after item B is completed, applicable deductions allowed under subparts 7, 8, and 9.

E. Add together the amounts calculated in items C and D. This sum is the net income of the individual applicant, recipient, or member of the assistance unit.

F. Add together the net income of all members of the assistance unit and persons whose income is considered available under part 9505.0075, subparts 2 and 5. This sum is the net income of the assistance unit and is used in determining whether the assistance unit meets the income eligibility standard under subpart 1.

Subp. 3. Excluded income. Income in items A to T must be excluded from consideration as income available to meet health service needs:

A. Public assistance payments under the following programs must be excluded: aid to families with dependent children, general assistance, Minnesota supplemental aid, supplemental security income including all income of those persons deemed eligible for supplemental security income under section 1619 A and B of the Social Security Act, food stamps, title XX of the Social Security Act (if not earned income), and child welfare relief. The payments must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

B. Casual earning or benefit received or available, including unanticipated income that totals less than \$30 per month, must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt. "Casual earning or benefit" means income that is not anticipated income and that is received on an irregular or infrequent basis for services performed at irregular intervals. Examples are income from babysitting, the sale of blood, lawn mowing, cutting wood, and garage sales.

C. Interest paid or credited to an account within the asset standard in part 9505.0060, subpart 4, item A must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

D. Wages, stipends, and reimbursement for mileage and meals paid to persons working with Volunteers in Service to America (VISTA), University Year for Action, retired senior volunteer program, foster grandparents' program, service corps of retired executives, active corps of executives, and the older Americans community service program (senior companions) must be excluded as earned or unearned income in the month of receipt but counted as an asset if retained after the month of receipt.

E. Payments other than wages or salaries made to persons working in congregate meal programs or the older Americans social service employment program under the Comprehensive Older Americans Act must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

F. Job Training Partnership Act (JTPA) payments shall be treated as in subitems (1) and (2):

(1) An incentive allowance must be excluded as income in the month received but counted as an asset if retained after the month of receipt. For purposes of this subitem "incentive allowance" means a flat weekly amount paid to a person receiving public assistance.

(2) Training allowances and educational expenses must be deducted, and the remainder must be considered income in the month received but counted as an asset if retained after the month of receipt. For purposes of this subitem, "training allowance" means an hourly minimum wage paid to a person not receiving public assistance.

G. The earned income of a full-time student under age 18 must be excluded as income in the month received but counted as an asset if retained after the month of receipt.

H. Federal low income heating assistance program payments must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

I. Foster care payments to persons who provide child and adult foster care must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

J. Work incentive (WIN) program work and training allowances must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

K. Payments for foster care and adoptions subsidized under Minnesota Statutes, section 259.40 or under title IV-E of the Social Security Act must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

L. Money borrowed by the person under the terms of a written loan agreement that has a repayment schedule must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

M. All reverse mortgage proceeds received under Minnesota Statutes, section 47.58 must be excluded as income in the month of receipt but counted as an asset if retained after the month of receipt.

N. Payments made by federal agencies under a presidential disaster declaration must be excluded as income in the month of receipt and as an asset for nine months after the month of receipt if kept in a separate account.

O. Funds administered by the United States secretary of education must be excluded in the month of receipt. To retain the exclusion beyond the month of receipt, the fund must be kept in a separate account. Examples of such a fund are Pell grants, supplemental educational opportunity grants, national direct student loans, federally insured student loans, and payments under the federal college work study program.

P. Payments to Indians of tribal earnings as determined by the United States Congress and Indian claims commission funds distributed on a per capita basis or held in trust must be excluded as income in the month of receipt and as an asset after the month of receipt, if the retained funds are kept in a separate account.

Q. Other educational benefits, including loans, grants, stipends, or veterans benefits must be excluded only to the extent that the amount of the benefit equals actual educational expenses. For purposes of this item, "educational expenses" refers to tuition, mandatory fees, course and laboratory fees, books, transportation to and from school, supplies, and equipment required for coursework, and child care costs incurred while at school and in transit.

R. In-kind benefits must be excluded as income and as an asset.

S. The first \$50 of child support income received by the assistance unit must be excluded as income.

T. The amount of Retirement, Survivors, and Disability Insurance cost of living increases that have occurred since April 1, 1977, must be disregarded for persons and their spouses who were receiving supplemental security income or Minnesota supplemental aid but who became ineligible for those payments as a result of the Retirement, Survivors, and Disability Insurance cost of living increases paid after April 1, 1977.

U. Any other type of funds excluded as income by federal or state law related to medical assistance must be excluded as income.

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Subp. 4. **Earned income disregards.** A recipient who qualifies for more than one disregard in items A to C must choose one disregard to be applied to monthly gross earned income. The disregards in items A to C also apply to the income of a spouse living with a person who is qualified for a disregard.

A. The first \$20 of earned income plus one-half of the remaining monthly earned income, up to a maximum disregard of \$50, for a recipient who is at least 65 years of age and does not reside in a long-term care facility.

B. The first \$7.50 of gross monthly earned or unearned income plus \$85 and one-half of the remaining monthly earned income for a person who is certified as blind and does not reside in a long-term care facility.

C. The first \$65 plus one-half of the remaining monthly earned income for a person who is certified as disabled and does not reside in a long-term care facility.

Subp. 5. **Deduction for employment expenses of person who is age 65 or older, blind, or disabled.** The local agency shall deduct the employment expenses in the order in items A to M in determining net earned income of an employed person who is eligible because of age, blindness, or disability:

A. State and federal income taxes consistent with the number of allowable exemptions.

B. Federal insurance contributions act payments (FICA).

C. Mandatory retirement fund payments.

D. The cost of transportation related to employment. For the person who uses public transportation or takes part in a car pool, the local agency shall deduct the fare or fee the person actually pays. For the person who uses a private vehicle, the local agency shall deduct the amount per mile allowed on the most recent federal income tax return for actual miles driven for business purposes.

E. Actual reasonable expenses of child care necessary to earn income and paid to anyone other than a parent of the child or a person in the assistance unit receiving or applying for medical assistance.

F. Unreimbursed costs of transportation to and from place of child care necessary to earn income.

G. Union dues.

H. Professional association dues required for employment.

I. Health and dental insurance premiums whether mandatory or voluntary.

J. Cost of uniforms, tools, and equipment used on the job that are required, but not furnished by the employer.

K. One dollar per work day for the cost of meals during employment hours for each day the person is employed.

L. The cost of required public liability insurance that is not reimbursed by the employer.

M. Court-ordered support payments paid directly by the person or withheld by the employer and transferred to a child not living with the person or to a former spouse of the person.

Subp. 6. **Deductions for employment expenses for families and children.** In calculating the net earned income of families and children, the local agency shall deduct the greater of the sum of actual expenses of employment as calculated under subpart 5 or the amount allowed for employment expenses under the aid to families with dependent children program.

Subp. 7. **Deductions from rental income.** In calculating net rental income, the local agency shall deduct the rental property costs in items A to C from total rental receipts. The total rental receipts and the rental property costs must be prorated according to the shares of ownership if the property is jointly owned. Money deducted from rental income under items A to C must be excluded as income in the month of receipt and as an asset if the funds are retained after the month of receipt. The retained funds must be placed in a separate account until used for a purpose specified in items A to C:

A. for upkeep and repairs, an annual amount equal to a maximum of two percent of the property's market value or a lesser amount as requested by the person;

B. taxes, premiums for insurance on the property, and mortgage or contract for deed payment of interest and principal; and

C. utilities specified as the owner's responsibility in the rental agreement.

Subp. 8. **Deductions from self-employment income.** In calculating net self-employment income, the local agency shall deduct from the total business receipts the costs of producing the income as allowed on the United States income tax schedule. However, capital expenditures, depreciation, and carryover losses claimed for business purposes on the most recent federal income tax return are not deductible business expenses.

Net self-employment income, if greater than zero, must be added to other earned and unearned income to determine income for purposes of the medical assistance program. Losses from self-employment income may not be deducted from other earned or unearned income.

Subp. 9. **Deductions from income from in-home lodging or day care.** In calculating net income from a business providing lodging or day care in the person's residence, the local agency must use the methods in items A and B:

A. When the business provides room or room and board, the agency shall deduct from the monthly business income \$71 per month for a roomer, \$86 for each boarder, and \$157 per month for an individual who receives room and board. These amounts must be adjusted as necessary to be consistent with the corresponding amounts in the aid to families with dependent children program.

B. When the person provides day care in the person's residence, the person may compute the income from the business by either:

(1) deducting itemized business expenses from gross business receipts in the manner in subpart 8; or

(2) considering net income from the child care business to be 40 percent of gross business receipts, minus the actual cost of transportation expenses incurred in operating the business.

Subp. 10. **Anticipating income.** Income must be anticipated on an annual basis for all persons except for a person who is on a monthly spend-down under subpart 11, items A and B. Income must be anticipated on a monthly basis for a person who is on a monthly spend-down.

Anticipated income must be determined by using the method in items A to G that most accurately reflects the circumstances of the person:

A. When income is unvarying in amount and timing of receipt, an eligibility statement or wage stub must be used to verify the amount of the income. Examples of unvarying income are social security payments, pensions, unemployment compensation, and fixed salaries. For purposes of this item, "eligibility statement" means a document from a payer informing the person of eligibility for the amount of the income.

B. Income that is expected to fluctuate slightly must be anticipated by using the income in the month of application or redetermination.

Monthly income must be calculated by multiplying:

(1) average weekly income by 4.3;

(2) average biweekly income by 2.16; or

(3) average semimonthly income by 2.

C. If income is expected to fluctuate but does not follow a seasonal pattern, monthly income is the average of monthly income received during the three most recent months.

D. If income fluctuates within a seasonal pattern, but is reasonably stable year to year, monthly income is the average of monthly income during the most recently completed calendar year.

E. Except as provided in item G, monthly farm income is the average of monthly income for the three most recent years during which the farm has been in operation.

F. Zero income must be used for any month in which no source of income is reasonably certain.

G. If the applicant or recipient has had a recent financial change that makes a method in item C, D, or E an inaccurate predictor of future income, the local agency shall make a reasonable estimate of future income and document the income basis used.

Subp. 11. **Eligibility based on income spend-down.** A person determined eligible on the basis of a spend-down is eligible for the periods specified in items A to G if the person incurs health service bills at least equal to the amount of the spend-down during the eligibility period. Except as in items C and D, only bills for health services incurred during the eligibility period may be used to satisfy the spend-down. Actual rates charged for the health service to the person less any portion of the bill covered by a liable third party payment shall be used in determining whether the person satisfies the spend-down. Prior authorization requirements and medical assistance payment rates and service limitations under parts 9500.0900 to 9500.1080 shall not apply to health service bills used to satisfy a spend-down. However, rates established by the department for long-term care in nursing homes and residential care facilities for the mentally retarded and physically handicapped must be used to calculate the continuing monthly spend-down for a recipient who resides in a long-term care facility during the period between the date of application and the determination of eligibility.

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A. The spend-down requirement must be met on a monthly basis by a person residing in a long-term care facility, a person with a full-time personal care assistant, a person receiving health services under parts 9505.2250 to 9505.2380, and a person approved by the department because the person's costs for medically necessary health services regularly exceed the spend-down and the person will not be provided those services without guarantee of eligibility. For purposes of this item, "personal care assistant" means a person who meets the training requirements set by the department to provide personal care service.

B. The monthly spend-down of a person residing in a long-term care facility shall be the net income remaining after deducting subitems (1) to (4). The spend-down must be applied to monthly health service costs in the order incurred until the spend-down is satisfied. For purposes of this item, deductions are:

(1) the clothing and personal needs allowance specified in Minnesota Statutes, section 256B.35;

(2) in the case of a person who is mentally retarded as defined in part 9525.0010, subpart 11 or is certified as disabled as defined in part 9505.0040, items E to H and is employed under a plan of rehabilitation, a special monthly personal allowance of the first \$50 of gross monthly earned income;

(3) the amount that, together with the income of the spouse and child under age 18 as specified in part 9505.0075, would provide net income equal to the medical assistance standard for the family size of the dependents excluding the person residing in the long-term care facility;

(4) for a period of up to three calendar months, the medical assistance standard for a family size of one if the person was not living together with a spouse or child under age 21 at the time the person entered a long-term care facility, if the person has expenses of maintaining a residence in the community, and if a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less.

C. In determining retroactive eligibility on a spend-down basis for periods before an applicant became eligible for aid to families with dependent children, general assistance, or Minnesota supplemental aid or for an admission to a long-term care facility for a period expected to last longer than three months, the agency must base its determination on the actual income for the three-month retroactive period and anticipated income for the remaining months of the annual period in subpart 10. Only bills for health services incurred during the month of application and the three calendar months before the month of application may be used to satisfy the spend-down.

D. In all other cases, the spend-down requirement must be met on a six-month basis. Only bills for health services incurred during the month of application and the three calendar months before the month of application may be used to satisfy the spend-down. The person has the right to choose the beginning month of the six-month eligibility period. The choice is limited to the month of application and the three calendar months before application. A six-month spend-down requirement is satisfied if the bills for health services equal the difference between one-half of the annual anticipated income and six times the medical assistance monthly income standard for the household size.

E. The order in which bills must be used to meet the spend-down is:

(1) health insurance premiums not deducted from earned income as in subpart 5, item I;

(2) bills incurred for a health service provided to a legal dependent, bills incurred for a health service provided to a responsible relative whose income is used to determine the eligibility of the recipient, and bills incurred for a health service that is allowed under state law but not reimbursable under the medical assistance program; and

(3) bills incurred for a health service that is reimbursable under the medical assistance program. Bills incurred in this subitem must be deducted in chronological order according to the date of service.

F. The recipient is responsible for payment of the spend-down amount calculated by the local agency. The provider is responsible for collecting the amount of the spend-down. After the local agency has determined a person is eligible on the basis of a spend-down, a nonliable third party payer may pay some or all of the person's spend-down requirement. Examples of nonliable third-party payments used to pay the spend-down of an eligible person are funds provided by the Hill Burton program, Services for Children with Handicaps, community fund raisers, and nonresponsible relatives.

G. For persons in long-term care facilities, the daily rate set by the department must be added for each day, in chronological order until the total equals the spend-down. Medical assistance shall cover the balance for the month.

Subp. 12. **Income in retroactive determination.** The local agency shall determine retroactive eligibility on the basis of the applicant's actual net income in the retroactive period.

9505.0070 THIRD PARTY LIABILITY.

Subpart 1. **Definition.** For purposes of parts 9505.0070 and 9505.0071, "assignment" or "assignment of benefits" means the written authorization by a person, the person's authorized representative, a policyholder, or other authorized representative, to

transfer to another individual, entity, or agency his or her right or the rights of his or her dependents to medical care support or other third party payments.

Subp. 2. Third party payer; primary coverage. A third party payer who is liable to pay all or part of the cost of a health service provided to a medical assistance applicant or recipient shall be the primary payer. The third party payer's coverage of or liability for a health service provided to a medical assistance applicant or recipient must be used to the fullest extent available before a medical assistance payment is made on the recipient's behalf.

Subp. 3. Provider responsibility to obtain information and assignment of benefits. The provider shall obtain information about the recipient's potential health service coverage by a third party payer from the recipient, from the recipient's responsible relative, or from the remittance advice provided by the department upon rejection of a claim because of the department's identification of a potential third party payer. Further, the provider may obtain an assignment of benefits from the recipient, policyholder, or other authorized individual or representative. In the case of a dependent child insured under a policy held by a parent or other individual who does not have custody of the child, the provider may obtain the assignment from the individual who has custody of the child.

Subp. 4. Provider billing; third party. When a provider is informed by a recipient, the recipient's responsible relative or authorized representative, a local agency, or the department that the recipient has health service coverage by a third party payer, the provider shall bill the third party payer before seeking medical assistance payment for the health service.

Subp. 5. Provider billing; department. Except as in subpart 7, the provider shall not submit a claim for medical assistance payment until receiving from the third party payer payment, partial payment, or notice that the claim has been denied. A provider may submit a claim for medical assistance payment for the difference between the amount paid by the third party and the amount payable by medical assistance in the absence of other coverage. However, no medical assistance payment will be made to a provider under contract with a private health coverage plan when the private health coverage plan calls for the provider to accept the plan's payment as payment in full. The provider who submits a claim for medical assistance payment by the department after a third party payer has paid part of the claim or denied the claim shall submit with the claim the additional information or records required by the department to document the reason for the partial payment or denial.

Subp. 6. Time limit for submission of claims. A provider must submit claims to the department according to the 12-month billing requirement in part 9500.1080, subpart 2.

Subp. 7. Provider billing; third party failure to respond. A provider who has not received either a payment or denial notice from a third party payer within 90 days after submitting the claim for payment may bill the medical assistance program. The provider shall submit to the department, no later than 12 months after the date of service to the recipient, a copy of the original claim to the third party payer, documentation of two further attempts to contact the third party payer, and any written communication the provider has received from the third party payer.

Subp. 8. Recovery of payments to recipients. Notwithstanding part 9500.1080, subpart 1, a provider may bill a recipient to recover the amount of a payment received by a recipient from a third party payer. The department is liable only to the extent that the amount payable by medical assistance exceeds the third party liability.

Subp. 9. Exclusion from third party payer billing requirements. The department shall exclude from third party payer billing requirements those health services for which the probable existence of liability cannot be determined or for which the third party payer billing is not cost-effective to the department. Providers are not required to bill third party payers for:

A. Prescription drugs and nondurable medical supplies as defined in part 9500.1070, subpart 10, item A, under major medical expense insurance that provides protection against extraordinary medical expenses that would otherwise create a serious financial hardship. This exclusion does not apply to pharmacy only insurance and private health maintenance organization plans (HMOs), Medicare approved charges, and durable medical equipment as defined in part 9500.1070, subpart 10, item B.

B. Early periodic screening diagnosis and treatment (EPSDT) claims except when the person is covered by a private health maintenance organization plan (HMO).

C. Claims for which the submitted charge is less than \$5. For purposes of this item, "claim" means a single line on the pharmacy and medical supply invoice of the department and the total of all lines on other invoice forms of the department.

D. Personal care attendant services provided by unlicensed personnel.

E. Day activity center (DAC) services.

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- F. Waivered services billed to the department by the local agency.
- G. Routine physical examinations excluded from payment by a third party payer.
- H. Nonassignable insurance claims.

I. Other health services for which the Health Care Financing Administration (HCFA) has granted the state a waiver. The department will implement any waiver approved by HCFA or discontinue any waiver withdrawn by HCFA within 60 days after the department's receipt of the notice from HCFA.

9505.0071 ASSIGNMENT OF RIGHTS.

Subpart 1. **Notification to local agency.** A person or the person's authorized representative shall notify the local agency of the availability of third party payer coverage at the time of application, at the time of an eligibility redetermination, and within ten days of a change in potential coverage.

Subp. 2. **Assignment of benefits.** All legally able medical assistance applicants and recipients shall assign to the department their rights and the rights of their dependent children to benefits from liable or potentially liable third party payers. An applicant or recipient who refuses to assign to the department his or her own rights or those of any other person for whom he or she can legally make an assignment is ineligible for medical assistance. A person who is otherwise eligible for medical assistance shall not have his or her eligibility denied or delayed because he or she can not legally assign his or her own rights and the individual legally able to make the assignment refuses to assign the rights.

Subp. 3. **Cooperation in establishing paternity and obtaining medical support.** Except as provided in subparts 4 and 5, a person must cooperate with the department and local agency in establishing paternity of an eligible child and in obtaining medical care support and payments for himself or herself and any other person for whom he or she can legally assign rights. Cooperation includes providing the local agency or the department with information, appearing at a state or local office to provide information or evidence relevant to the case, appearing as a witness at a court or other proceeding, paying to the local agency or the department any medical support or medical care funds received that are covered in the assignment, providing information or attesting to lack of information under penalty of perjury, and taking other reasonable steps to establish paternity and obtain medical support. A person who fails to cooperate in establishing paternity or obtaining medical support is ineligible for medical assistance. The person who is otherwise eligible for medical assistance shall not have eligibility denied because his or her caretaker refuses to cooperate.

Subp. 4. **Good cause exemption from the requirement to cooperate in establishing paternity or obtaining medical care support for children.** Before requiring an individual to cooperate in establishing paternity or obtaining medical care support for children, a local agency shall notify the individual that he or she may claim a good cause exemption from the requirements of subpart 3 at the time of application or at a later time. When an individual submits a good cause claim in writing, the local agency must stop action related to obtaining medical care support and payments. The individual shall submit corroborative evidence of good cause claim to the local agency within 20 days of submitting the claim.

A. Good cause exists when:

- (1) a child for whom medical support is sought was conceived as the result of incest or rape;
- (2) legal proceedings for the adoption of a dependent child are pending before a court of competent jurisdiction; or
- (3) the person is receiving services from a licensed adoption agency to determine whether to keep the child or relinquish the child for adoption, and the services have not been provided for longer than three months.

B. Good cause exists when the individual documents that his or her cooperation would not be in the best interest of the dependent child because the cooperation could result in:

- (1) physical harm to the child;
- (2) emotional impairment of the child that would substantially affect the child's functioning; or
- (3) physical harm to or emotional impairment of the individual that would substantially affect the individual's functioning and reduce the individual's ability to adequately care for the child.

C. The local agency shall provide reasonable assistance to an individual who has difficulty getting the evidence to support a good cause claim. When a local agency requires additional evidence to make a determination on the claim for good cause, the local agency shall notify the individual that additional evidence is required, explain why the additional evidence is required, identify what form this evidence might take, and specify an additional period that will be allowed to obtain it.

D. A local agency shall determine whether good cause exists based on the weight of the evidence.

E. When a local agency determines that a good cause exists, the exemption from cooperation under subpart 3 must remain in effect for the period the child remains eligible under that application, except for subitems (1) to (4).

- (1) A good cause exemption allowed because a child was conceived as the result of incest or rape must continue until a

later acknowledgement of paternity or an application for adoption by a second parent is submitted for that child.

(2) A good cause exemption allowed because of adoption proceedings must be issued for a fixed period based on the expected time required to complete adoption proceedings. The exemption must be extended when the required time is longer than was anticipated and must stop when adoption proceedings are discontinued or completed.

(3) A good cause exemption allowed because of adoption counseling must last no more than three months from the time the counseling began.

(4) A good cause exemption must be allowed under later applications without additional evidence when the factors that led to the exemption continue to exist. A good cause exemption allowed under item B must end when the factors that led to allowing the exemption have changed.

F. A good cause exemption that has been allowed by a local agency for a person must be honored by the local agency in the county of residence when the person moves into that county, until the factors that led to allowing the exemption change.

G. When a local agency denies a claim for a good cause exemption and resumes its enforcement action, the local agency shall require the individual to submit additional evidence in support of a later claim for a good cause exemption before the local agency can again stop action to enforce medical support under subpart 3.

H. Following a determination that a person has good cause for refusing to cooperate, a local agency shall take no further action to enforce medical support until the good cause exemption ends according to item E.

Subp. 5. Good cause exemption from the requirement to cooperate in obtaining medical care support or payments for other persons. Before requiring an individual to cooperate in obtaining medical care support or payments for other persons not covered by subpart 4, a local agency shall notify the individual that he or she may claim a good cause exemption from the requirements of subpart 3 at the time of application or at any subsequent time. When an individual submits a good cause claim in writing, the individual shall submit corroborative evidence of the good cause claims to the local agency within 20 days of submitting the claim. The local agency must send the claim and the corroborative evidence to the department and must stop action related to obtaining medical care support and payments.

A. Good cause exists when cooperation is against the best interests of the individual or other person to whom medical assistance is being furnished because it is anticipated that cooperation will result in reprisal against and cause physical or emotional harm to the individual or other person.

B. The local agency shall provide reasonable assistance to an individual who has difficulty getting the evidence to support a good cause claim. When a local agency or the department requires additional evidence to make a determination on the claim for good cause, the local agency or department shall notify the individual that additional evidence is required, explain why the additional evidence is required, identify what form this evidence might take, and specify an additional period that will be allowed to obtain it.

C. The department shall determine whether good cause exists based on the weight of the evidence.

D. When the department determines that good cause exists, the exemption from cooperation under subpart 3, must remain in effect for the period the person remains eligible under that application. A good cause exemption must be allowed under subsequent applications without additional evidence when the factors which led to the exemption continue to exist. A good cause exemption allowed under this subpart must end when the factors which led to allowing the exemption have changed.

E. When the department denies a claim for a good cause exemption and enforcement action resumes, the individual must submit additional evidence in support of any later claim for a good cause exemption before the department or local agency can again stop action to obtain medical care support or payments under subpart 3.

F. Following a determination that an individual has good cause for refusing to cooperate, a local agency and the department shall take no further action to obtain medical care support or payments until the good cause exemption ends under item D.

9505.0075 RESPONSIBILITY OF RELATIVES.

Subpart 1. General requirements; financial obligation of responsible relative. A responsible relative has an obligation to contribute partial or complete repayment of medical assistance given to a recipient for whom he or she is responsible. The financial obligation of a responsible spouse must be determined under subpart 3 and the financial obligation of a parent must be determined under subpart 6 if the responsible spouse or parent provides the information needed to make the determination. The responsible spouse or parent who refuses to provide information needed to determine the financial obligation under subparts 3 and 6 is obligated

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to reimburse the local agency for the full amount of medical assistance paid for health services provided to the recipient. The local agency may reduce the amount to be paid on the financial obligation determined under subpart 3 or 6 if payment of the financial obligation will cause the responsible relative undue hardship.

Subp. 2. Consideration of spouses' assets and income. The assets and income of spouses living together must be considered available to each spouse in determining medical assistance eligibility for either or both spouses. When spouses do not live together, the presumption of availability of spousal assets and income ends on the first day of the month following the month in which the spouses cease living together.

Subp. 3. Financial obligation when spouses do not live together. If spouses do not live together during a period of medical assistance eligibility, the financial obligation of the responsible spouse to reimburse the medical assistance program for costs of services provided to the recipient must be determined according to items A to F:

A. A responsible spouse who is a recipient of medical assistance, aid to families with dependent children, general assistance, general assistance medical care, Minnesota supplemental aid, or supplemental security income has no obligation to contribute income or assets.

B. When the first application for medical assistance is approved, the local agency shall determine the available assets of the responsible spouse who is not an applicant or recipient. The following assets must be excluded from the determination:

- (1) liquid assets up to \$10,000 regardless of family size; and
- (2) all other assets allowed as exclusions in part 9505.0060 other than assets in subpart 4, item A.

The responsible spouse may reduce assets in excess of subitems (1) and (2) as in part 9505.0063, subpart 1 between the date of application and the date of determination of eligibility or 45 days after the date of application, whichever is later. The responsible spouse shall pay the medical assistance program one-third of the remaining excess assets. The one-third of the excess may be paid as a lump sum or in 12 equal monthly installments together with any monthly obligation determined under items C, D, and E. The responsible relative who chooses to pay the excess as a lump sum shall pay the excess within 30 days of the date of the notice from the local agency under subpart 8. A responsible relative who chooses monthly payments shall make the first payment as specified in the notice in subpart 8. If the sum of the monthly obligation under items C, D, and E and the amount of the excess asset resulting from the division into 12 monthly installments exceeds the monthly cost of the health service, the local agency shall reduce the payment from excess assets so that the sum is equal to the monthly cost of the health service. Payment in this manner shall continue until the obligation to contribute from assets is satisfied.

C. Within 30 days of an approved application for medical assistance, the local agency shall determine the responsible spouse's income liability. The local agency shall redetermine the income liability of a responsible spouse annually or more frequently when a change is known to the agency. However, a responsible spouse shall not be required to report income more often than annually. In determining the responsible spouse's net income, the local agency shall permit the income deductions provided in part 9505.0065. Valuation of spousal assets must include transferred assets on the same basis as specified in part 9505.0064.

D. The local agency shall determine the monthly payment to be made by the responsible spouse from the following payment scale:

Responsible Spouse's Net Monthly Income	Responsible Spouse's Monthly Payment
\$ 0 - 639	\$0
640 - 748	30 percent of the amount over \$640
749 - 959	\$32 plus 40 percent of the amount over \$749
960 - 1,124	\$116 plus 50 percent of the amount over \$960
1,125 - and over	\$198 plus 100 percent of the amount over \$1,125

The department shall adjust the scale by the percentage and at the time of cost of living increases in the Retirement, Survivors, and Disability Insurance.

E. The local agency shall reduce the responsible spouse's monthly payment by the child standard in part 9500.0190 for the number of children living together with the responsible spouse as specified in this part.

F. The responsible spouse shall pay the amount determined under item D. The payments shall be made:

- (1) monthly if the amount of medical assistance to be paid for health services to the recipient is known; or

(2) in a lump sum on an annual basis at the end of a calendar year if the amount to be paid is unknown or if the responsible spouse's income is received on an annual basis.

Subp. 4. Financial obligation of responsible spouse or parent of state hospital resident. The financial obligation of a responsible spouse or parent of a state hospital resident must be determined and enforced by the state hospital reimbursement office according to Minnesota Statutes, sections 246.51 and 246.511 and parts 9515.1000 to 9515.2600.

Subp. 5. Consideration of parental income. The income of a parent must be considered available in determining a child's eligibility for medical assistance as provided in items A to G. For purposes of this subpart, the status of parent ends when a child marries, or when a court of law terminates parental rights.

A. If the child is under age 21 and lives together with the parent, a parent's income and assets must be considered available in determining the child's eligibility.

B. If the child is under 18 and not living together with either parent, the child's eligibility must be based on the child's income and assets. The parent's income must be considered only in regard to a financial obligation to contribute under subpart 6.

C. If the child is under age 18 and living with one parent, the child's eligibility must be based on the child's income and assets and the income and assets of the parent living with the child. The parent not living with the child is obligated to contribute under subpart 6.

D. If the child is between 18 and 21 years of age, is not living together with the parent in order to attend a high school, college, university, a post-secondary area vocational technical institute, or a private business, trade, vocational, or technical school accredited, licensed, or approved under state laws and rules, and is a dependent of the parent for federal income tax purposes, the child is considered to live together with the parent. The parent's income and assets must be considered available in determining the child's eligibility.

E. If the child is age 18 or older, is not living together with the parent, and is not claimed as a tax dependent while attending a high school, college, university, post-secondary area vocational technical institute, or a private business, trade, vocational or technical school accredited, licensed, or approved under state laws and rules, the parent has no financial obligation.

F. If a child is a recipient of supplemental security income, parental income and assets must not be considered even if the child lives together with the parent.

G. If a child is under 18 and living together with the parents and the child's eligibility for medical assistance was determined without consideration of the parent's income and assets as part of a home- and community-based waiver under Minnesota Statutes, sections 256B.49 and 256B.491, the parent's income must be considered in regard to an obligation under subpart 6, item D.

Subp. 6. Parental financial obligation. When the parent has a financial obligation under subpart 5, item B, the parent's financial obligation to reimburse the medical assistance program for the costs of services provided by medical assistance to the child recipient must be determined according to items A to F. A parent who makes child support payments as ordered by the court shall have the amount paid subtracted from any obligation determined under this part.

A. A parent has no obligation to contribute assets.

B. The payments of a parent who has an obligation to pay must be determined according to parts 9550.6200 to 9550.6240.

C. A parent who has more than one child living apart from him or her is not required to pay more than the amount for one child. In this case, the parent shall pay the lesser of five percent of the parent's income or the amount determined under item B for the child with the highest expenditures for health services eligible for medical assistance payment.

D. In determining parental payments for the cost of health services provided a child under a medical assistance home- and community-based waiver while living together with the parent, the local agency shall subtract the room and board amount established in part 9505.0065, subpart 9, item A, from the parent's obligation.

E. A parent who adopts a child under the subsidized adoption program as in part 9505.0055, subpart 4 shall have no additional financial obligation under parts 9505.0010 to 9505.0150.

F. A parent who refuses to provide information needed to determine the parent's financial obligation is obligated to reimburse the local agency for the full amount of medical assistance paid for health services provided to the child.

Subp. 7. Change in living arrangement. Spousal or parental income and assets must be considered available in the month after

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the month in which the spouses or parent and child begin living together. Consideration of spousal or parental income and assets must end in the month after the month in which the spouses or parent and child cease living together. A change in living arrangement must be reported as required in part 9505.0115, subpart 1.

Subp. 8. **Notice to responsible spouse or parent.** When making an initial determination of eligibility, the local agency shall give written notice to the responsible spouse or parent within 30 days of the date of notice of the person's eligibility. Further, the local agency shall notify the responsible spouse or parent 30 days prior to the effective date of an increase in the obligation to be paid by the responsible spouse or parent. A decrease in the obligation to be paid by the responsible spouse or parent is effective the month following the month of the change in the cost of care or the responsible parent's or spouse's income or household size. The notice shall state the amount of the obligation to be paid, to whom the payment shall be made, the time a payment is due, penalties for refusing or failing to pay, and the right to appeal.

Subp. 9. **Appeals.** A responsible spouse or parent has the right to appeal the determination of an obligation to pay under Minnesota Statutes, section 256.045. The appeal must be made in writing to the local agency within 30 days of the date of the notice required in subpart 8.

Subp. 10. **Refusal or failure to pay.** If a responsible spouse or parent refuses or fails to pay the obligated amount within 30 days of the date specified in the notice under subpart 8, a cause of action exists against the responsible spouse or parent for the portion of medical assistance granted after the date of the notice to a responsible relative of a payment obligation. The county of financial responsibility shall refer the refusal or failure to pay to the county attorney for action to enforce payment of the obligation.

Unless the responsible spouse's or parent's income and assets are deemed available to the applicant or recipient, the refusal or failure of a responsible spouse or parent to pay the obligated amount does not affect the recipient's medical assistance eligibility. If the medical assistance payment to the long-term care facility has been reduced by the expected amount of the responsible spouse's or parent's obligation and the relative fails to pay within 60 days, the local agency shall adjust the payment to the long-term care facility so that the facility is paid the facility's per diem rate less the recipient's monthly spend-down.

9505.0080 COOPERATION WITH QUALITY CONTROL REVIEW.

Subpart 1. **Cooperation required.** A recipient, or the recipient's authorized representative or guardian, shall cooperate with the department's quality control review process by providing information necessary to verify the recipient's eligibility for medical assistance. In order to continue a recipient's eligibility, the recipient, representative, or guardian must:

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

Subp. 2. **Consequences of failure to cooperate.** Failure to cooperate with the quality control review process without good cause shall result in termination of assistance. A person has good cause under this subpart if the person's refusal to cooperate stems from a diagnosis of mental illness or a physical disability or illness long enough and severe enough to prevent the person from participating within the period the quality control unit has allotted to complete its review process.

9505.0085 RIGHT TO APPLY; MAKING APPLICATION.

Subpart 1. **Applying for medical assistance.** Any person or the person's authorized representative may apply for medical assistance at the local agency in the county of the person's residence, or in the county of the authorized representative's residence, or in the county of financial responsibility. The local agency that receives a request for medical assistance from an individual either by telephone or in person shall inform the individual of the eligibility factors and requirements and the procedure for making a written application. The local agency shall inform the individual that he or she has a right to apply for medical assistance, regardless of the agency's informal assessment as to the likely eligibility of the individual. The application must be completed by the applicant or the applicant's authorized representative, on the application form prescribed by the department. A local agency shall not require an individual to appear at the local agency for an interview or to submit verification of eligibility factors before the date when the individual submits the completed application form. The local agency shall accept the application and provide the applicant with information about the eligibility factors. The date of the application shall be as defined in part 9505.0010, subpart 5. An applicant may apply for eligibility consideration of up to three calendar months prior to the month of application.

Subp. 2. **Application by authorized representative.** A person who is incapable of completing the application or providing the information and verifications required for the determination of eligibility for the medical assistance program may authorize a representative. If the person is incapable of authorizing a representative, another individual may assume authorized representative status if the individual has access to needed information, is able to verify eligibility factors, and agrees in writing to assume the responsibilities of the applicant and recipient as set forth in parts 9505.0070 to 9505.0130 and Minnesota Statutes, section 256B.08. The local agency has the right to remove an authorized representative who does not perform the required duties. If no qualified

individual is available to act as authorized representative, the local agency shall appoint a social service professional to serve in that role.

9505.0090 LOCAL AGENCY ACTION ON APPLICATION.

Subpart 1. **Eligibility determination.** The local agency shall interview the applicant or authorized representative and complete the eligibility determination within the time limit in subpart 2. The local agency shall grant medical assistance to an applicant who satisfies the eligibility factors under parts 9505.0010 to 9505.0150.

Subp. 2. **Time limit for agency action.** The local agency shall act on an application for medical assistance no later than 45 days from the date of a medical assistance application on behalf of a person who is neither blind nor disabled. In the case of application on behalf of a blind or disabled person, the local agency shall complete the eligibility determination no later than 60 days from the date of the application. The local agency shall not construe the 45- or 60-day period for determination as a waiting period. The local agency must not deny an application earlier than the end of the 45- or 60-day period because of the applicant's refusal to provide the required information.

Subp. 3. **Required notice in case of delay.** If the information and documentation required by parts 9505.0010 to 9505.0150 are not obtained within the time limit, the local agency shall notify the applicant, in writing, about the deficiencies of the application, the reason for the delay in determining the applicant's eligibility, and the applicant's right to appeal the agency's delay of a decision under part 9505.0130.

If the reason for the delay is the applicant's refusal to provide required information or documentation, the agency's written notice to the applicant must also state that eligibility will be denied unless the applicant provides the information within ten days of the date of the notice to the applicant.

If the reason for the delay is the applicant's inability to obtain or provide the information, the agency shall assist the applicant to obtain the information.

When a delay results because necessary information cannot be obtained within the time limit, the local agency shall notify the applicant of the reason for the delay in writing, and of the applicant's right to appeal the delay.

Subp. 4. **Withdrawal of application.** An applicant may withdraw his or her application at any time by giving written or oral notice to the local agency. The local agency shall issue a written notice confirming the withdrawal. The notice must inform the applicant of the local agency's understanding that the applicant has withdrawn the application and no longer wants to pursue it. When, within ten days of the date of the agency's notice, an applicant informs a local agency in writing that he or she does not want to withdraw the application, the local agency shall reinstate, and finish processing the application.

9505.0095 VERIFICATION OF ELIGIBILITY INFORMATION.

The local agency shall verify the eligibility factors, in determining the medical assistance eligibility of the applicant. The local agency must not require an applicant or recipient to verify more than once an eligibility factor not subject to change and available in existing medical assistance files of the local agency.

The applicant shall give the local agency written authorization to contact sources who are able to verify the required information to the local agency. An applicant who refuses to authorize verification of an eligibility factor including a social security number shall be denied medical assistance eligibility.

9505.0100 NOTICE OF AGENCY DECISION ON ELIGIBILITY.

The local agency must notify a person, in writing, in the format determined by the department, of the agency's decision on the person's medical assistance eligibility. The notice must be sent within the time limits set in part 9505.0090 and comply with the requirements of part 9505.0150. If the determination is to deny eligibility, the local agency shall give the person the reasons for the denial and state the person's right to appeal the denial as provided in part 9505.0130.

9505.0105 APPLICATION FOR STATE HOSPITAL RESIDENTS.

A state hospital resident may apply for medical assistance at the state hospital reimbursement office. The reimbursement office shall assist the hospital resident in completing the application form and shall forward the application to the local agency of the county of financial responsibility for the local agency's determination of eligibility. The date of the application is the date on which the state hospital reimbursement office receives a signed application. The local agency shall notify the reimbursement office of actions taken on the application, a delay in determining eligibility, and any change in eligibility status.

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9505.0110 PERIODS OF ELIGIBILITY.

Subpart 1. **Retroactive eligibility.** Retroactive eligibility is available for the three calendar months before the month of application. Retroactive eligibility must be determined as if the applicant had applied in the retroactive month except for the reduction of excess assets as in part 9505.0063, subpart 1. Retroactive eligibility is available on the date after the day on which excess assets are reduced under part 9505.0063, subpart 1. Retroactive eligibility does not depend on a finding of eligibility for the month of application or for all of the months in the retroactive period and is not limited to consecutive months in the retroactive period.

Subp. 2. **Other periods of eligibility.** Other periods of eligibility shall be as in items A to D:

A. A person whose income is at or below the maximum in part 9505.0065, subpart 1 is eligible for 12 months if all eligibility factors remain satisfied.

B. A person who is eligible on a monthly spend-down basis is eligible for 12 months if all eligibility factors remain satisfied.

C. A person whose spend-down is calculated under part 9505.0065, subpart 11, item D is eligible for six months.

D. A person retaining medical assistance eligibility after termination of aid to families with dependent children under part 9505.0055, subpart 3, is eligible for medical assistance for the period specified in that subpart.

Subp. 3. **Eligibility for entire month.** A person who satisfies all eligibility requirements at any time within a month is eligible for the entire month beginning with the first of the month unless:

A. eligibility ends because the person dies; or

B. the starting date is delayed by an income spend-down requirement under part 9505.0065, subpart 11; or

C. the starting date of retroactive eligibility begins as specified under subpart 1.

9505.0115 REDETERMINATION OF ELIGIBILITY.

Subpart 1. **Report of change.** An applicant or recipient must report a change in an eligibility factor to the local agency within ten days of learning about the change.

Subp. 2. **Redetermination after change in eligibility factor.** The local agency shall redetermine eligibility if a change in an eligibility factor is reported. The redetermination must be completed so that the change can go into effect by the second month following the month of the change.

Subp. 3. **Periodic redetermination.** The local agency shall perform periodic redeterminations before the end of the eligibility periods defined in part 9505.0110, subpart 2, items A and B, so that eligibility is not interrupted because of agency delay of redetermination. The local agency shall review quarterly those cases where the person's assets are within \$300 of the asset limitations in parts 9505.0059 and 9505.0060.

Subp. 4. **Redetermination for state hospital resident.** The local agency of the county of financial responsibility may request the state hospital reimbursement officer to obtain the information necessary for the local agency to redetermine the state hospital resident's medical assistance eligibility.

Subp. 5. **Redetermination after change in recipient category.** The local agency shall review a person's eligibility when the basis for the person's eligibility changes from one of the categories listed in part 9505.0040 to another category listed in part 9505.0040. If the basis for eligibility changes from one of the categories listed in parts 9505.0016 and 9505.0055, subparts 1 to 5 to one of the categories listed in part 9505.0040, the local agency shall require the person to make a new application if the person wants medical assistance. The local agency shall require the person to provide the information necessary to complete the agency's review. However, the local agency shall assist the person who is shifting categories to minimize any disruption in eligibility by promptly notifying the person of any requirements to be met and any deadlines that could affect continued receipt of medical assistance.

9505.0120 REAPPLICATION.

A new application is required if a person's previous application has been denied or withdrawn, if a previous six-month spend-down period has expired, or if the person wants a determination of only medical assistance eligibility after loss of concurrent eligibility for receipt of public assistance under part 9505.0055.

9505.0125 NOTICE OF DENIAL OR TERMINATION

Subpart 1. **Notice to applicant or recipient.** The local agency or department shall send the person a written notice, in the format prescribed by the department, when the agency or department denies prior authorization, restricts free choice of provider, or reduces, denies, or terminates the person's medical assistance eligibility. The notice must clearly state the proposed action, the reason for the action, the person's right to appeal the proposed action, and the person's right to reapply for eligibility or additional eligibility. The notice must comply with parts 9505.0100 and 9505.0150. Except as in subpart 2, the notice must be sent as specified in items A to C:

A. In the case of restriction of free choice of provider, the notice must be sent by the department to the person no later than ten days before the effective date of the restriction.

B. In the case of denial of prior authorization, the department shall notify the recipient and the provider no later than 30 working days after receipt of all information required for prior authorization.

C. In the case of a denial, reduction, or termination of eligibility, the local agency shall notify the person no later than ten calendar days before the effective date of the action. Except in the case of the recipient's death, the effective date of the termination is the first day of the month after the month in which the recipient no longer met the eligibility factors. In the case of a recipient's death, the effective date of termination is the day after the date of the recipient's death.

Subp. 2. **Exceptions to period of notice.** The circumstances in items A and B permit exceptions to the period of notice required in subpart 1:

A. The period of notice may be five days before the date of the proposed action if the local agency has facts indicating probable fraud by the applicant or recipient and if the facts have been verified through a secondary source.

B. The agency may mail a notice not later than the date of action if:

(1) The local agency has facts confirming the death of an applicant or recipient. The effective date of the notice is the day after the date of death.

(2) The local agency receives a written statement from the applicant or recipient that he or she no longer wants to receive medical assistance.

(3) The recipient has been admitted to a penal facility, or an institution for the treatment of mental diseases where he or she is ineligible for further health services.

(4) The local agency verifies that another state has determined that the applicant or recipient is eligible for medical assistance.

9505.0130 RIGHT TO APPEAL; APPEAL PROCESS.

Subpart 1. **Rights of applicant or recipient.** An applicant or recipient of medical assistance has the right to a hearing:

A. if the local agency fails to act on the application within required time limits;

B. if eligibility is denied or terminated;

C. if the recipient's spend-down is increased;

D. if the recipient's choice of provider is restricted;

E. if payment for a health insurance premium is denied because the department determines the insurance policy is not cost effective for the medical assistance program; and

F. if the department denies a recipient's request for health service.

Subp. 2. **Appeal process.** An applicant or recipient may appeal the proposed action within 30 days after the notice was sent to the applicant or recipient by the local agency. The appeal must be filed within 30 days of the local agency's action. However, a delay to 90 days is allowed if an appeals referee finds that the applicant has good cause for failing to request a hearing within 30 days. The applicant's or recipient's written appeal and request for hearing must be submitted to the department by the local agency. A state appeals referee shall conduct a hearing and recommend to the commissioner a course of action in the case. The commissioner shall issue an order affirming, reversing, or modifying the action or decision of the local agency or the department. This order is binding upon the local agency and the aggrieved party unless an appeal is filed with the district court within 30 days of the commissioner's order, under Minnesota Statutes, section 256.045, subdivision 7.

Subp. 3. **Right to apply pending decision on aid to families with dependent children appeal.** When a termination of the aid to families with dependent children grant has been appealed by the assistance unit and benefits to the assistance unit are continuing from the aid to families with dependent children grant and medical assistance program pursuant to that appeal, the local agency shall notify the recipients of their right to immediately file a request for medical assistance. The local agency shall place these requests in a pending status until the outcome of the appeal is known. If the appeal is denied, the local agency shall determine the person's eligibility for medical assistance.

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Subp. 4. **Right to review records.** A local agency shall allow a person, the person's authorized representative, or the person's guardian to review the records that the local agency maintains concerning the person's medical assistance application and eligibility, except for records to which access is denied under Minnesota Statutes, chapter 13. A local agency shall make the records available to the person, the person's authorized representative, or the person's guardian as soon as possible but no later than the fifth business day after the date of the request. When a person, the person's authorized representative, or the person's guardian asks for photocopies of material from the person's records, the local agency shall provide one copy of each page at no cost to the individual making the request.

9505.0131 WRONGFULLY OBTAINED ASSISTANCE.

Subpart 1. **Applicability to other laws.** This part outlines procedures that apply to medical assistance eligibility and are available for use in combination with established civil and criminal procedures and law.

Subp. 2. **Responsibility of local agency to act.** A local agency that receives an allegation of medical assistance eligibility fraud shall take any or all of the actions in items A to C.

A. The local agency shall refer a case of suspected medical assistance eligibility fraud to the person or unit designated by the board of commissioners in the county of the local agency for investigation of the suspected fraud.

B. The local agency shall issue notice according to part 9505.0125 to reduce or terminate the person's medical assistance eligibility when the local agency receives facts that show a person is not eligible for medical assistance or for the amount currently being received.

C. The local agency shall refer cases of probable medical assistance eligibility fraud to the county attorney.

Subp. 3. **Continued medical assistance eligibility.** A local agency shall continue medical assistance eligibility if current program eligibility exists even when medical assistance eligibility fraud was proven for an earlier period or is under current investigation as in subpart 2.

Subp. 4. **Recovery of wrongfully obtained medical assistance.** A local agency shall recover or attempt to recover wrongfully obtained medical assistance. The amount recovered must not be more than the amount wrongfully obtained unless the amount is based on a court judgment. A local agency shall seek voluntary repayment or initiate civil court proceedings to recover the balance of the wrongfully obtained assistance that has not been repaid.

Subp. 5. **Reporting requirement.** A local agency shall gather and report statistical data required by the commissioner on local agency activities to prevent medical assistance eligibility fraud.

9505.0135 ADMINISTRATIVE FUNCTIONS OF LOCAL AGENCY.

Subpart 1. **Local agency responsibility.** The local agency is responsible for the medical assistance program and shall determine eligibility for the program under the supervision of the department as provided in Minnesota Statutes, section 256B.05.

Subp. 2. **Submittal of information.** The local agency shall submit to the department information about applicants and recipients in the form prescribed by the department.

Subp. 3. **Maintenance of records.** The local agency shall develop and maintain accurate records regarding implementation of parts 9505.0010 to 9505.0150. The local agency shall keep the records in a way that complies with the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. The records must contain a central register of the names of all persons who apply for medical assistance.

Subp. 4. **Estate claims.** The local agency of the county of financial responsibility shall file claims against the estates of medical assistance recipients as provided in Minnesota Statutes, section 256B.15. The county of financial responsibility shall receive 50 percent of the nonfederal share of estate claim recoveries.

Subp. 5. **Responsibility for payments.** The county of service is solely and fully responsible for a payment made on behalf of a recipient when the payment results from:

A. Late or inaccurate eligibility redetermination according to part 9505.0115. Federal and state shares of the costs of health services for persons whose eligibility redetermination is overdue by more than 60 days are the responsibility of the county of service beginning with the end of the second month of overdue status. The servicing county may complete the eligibility redetermination and appeal the decision before 120 days. The local agency will remain responsible for the costs if the late redetermination results in the eligibility of an otherwise ineligible individual. Federal and state shares of costs incurred for persons whose eligibility redeterminations are at least 120 days overdue are the responsibility of the county of service, regardless of the individual's eligibility status starting with the end of the second month of overdue status. A local agency may not challenge a penalty arising from a redetermination that is overdue for 120 days or more.

B. Noncompliance with utilization control requirements in parts 9505.1750 to 9505.2150.

C. Inaccuracy or incompleteness of records that are required by subpart 3.

D. Failure to submit to the department accurate and timely information about the closing of cases. For purposes of this item, "timely" means that a local agency issuing a termination notice under part 9505.0125 notifies the department of the termination in sufficient time so that the department will not issue the person a medical assistance identification card or continue the person's eligibility for a prepaid capitation rate to a health plan for the month after the month in which the local agency issued the termination notice.

Subp. 6. **Responsibility for errors.** If an original county of service transfers responsibility for services to another county, fiscal penalties arising from overdue eligibility redeterminations are the responsibility of the original county for the month of transfer, and for the first 30 days after the date of the transfer.

9505.0140 PAYMENT FOR ACCESS TO MEDICALLY NECESSARY SERVICES.

Subpart 1. **Access to medically necessary services.** The local agency shall ensure that a service listed in items A to C is available to a medical assistance recipient to enable the recipient to obtain a medically necessary health service. The local agency shall pay directly for these services and may charge them to the medical assistance program administrative account for reimbursement. The services are:

A. Sign language interpreter, if a hearing-impaired person must have an interpreter in order to receive health services from a provider with fewer than 15 employees.

B. Transportation by volunteer driver, common carrier, or contract for service, or direct mileage reimbursement to the recipient or the recipient's driver. The mileage reimbursement must be at the rate specified in part 9505.0065, subpart 5, item D. Parking fees must be reimbursed at actual cost.

C. Meals and lodging necessary to obtain health services. Direct reimbursement to the recipient for the cost of the recipient's meals and lodging necessary to obtain health services eligible for medical assistance reimbursement must be the lesser of the actual cost of the lodging and meals or the standard for lodging and meals permitted for state employees not represented by a bargaining unit.

D. Meals, lodging, and transportation costs of a responsible relative or other person to accompany or be present with the recipient at the site of health services. When a responsible relative or another individual is needed to accompany the recipient or to be present with the recipient at the site of a health service medically necessary for the recipient, the accompanying individual must be reimbursed for the cost of his or her meals, transportation, and lodging based on the standard for the recipient.

Subp. 2. **Local agency procedure to ensure access.** Within 90 days after the effective date of parts 9505.0010 to 9505.0150 and every two years after, the local agency shall submit to the department a transportation plan that specifies the means the local agency will use to meet the requirements of subpart 1. The department shall review the plan and advise the local agency whether it meets the requirements of subpart 1. The local agency shall inform a recipient of the county's transportation plan. A local agency may require prior approval of the payments of costs in subpart 1 if exceptions are made for emergencies and retroactive eligibility.

9505.0145 IDENTIFICATION CARDS.

Subpart 1. **Issuance by local agency.** The local agency of the county of service shall issue the initial medical assistance identification card together with the notice of eligibility specified in part 9505.0100. The identification card and notice must be issued directly to the medical assistance applicant within five days of establishing the applicant's initial eligibility. The local agency shall record the issuance of the card on forms approved by the department.

Subp. 2. **Issuance by department.** Based upon client eligibility information sent by the local agencies, the department shall issue medical assistance identification cards to eligible recipients or their legal guardians. However, a recipient participating in a health maintenance organization or other prepaid health service plan under contract with the department must be issued an identification card by the health maintenance organization.

Subp. 3. **Use of identification cards.** A provider or vendor of a health service may require a recipient to present a valid identification card, or may certify current eligibility through the local agency, before providing the health service to the recipient. The provider or vendor should verify that the recipient is currently eligible in order to ensure payment for a service eligible for payment under the medical assistance program.

Subp. 4. **Restriction of use of card.** The department may restrict the recipient's use of an identification card to designated

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providers or vendors of health services to prevent duplication or abuse of health services, to prevent the violation of prior authorization requirements, or to ensure continuity of care. A restriction must comply with parts 9505.1760 to 9505.2150 and is subject to the appeal process under part 9505.0130.

9505.0150 WARNING STATEMENT IN LANGUAGES OTHER THAN ENGLISH.

The commissioner shall prepare a written statement in English, Spanish, Laotian, Vietnamese, Cambodian, Hmong, and other languages that the commissioner determines appropriate for the applicants and recipients, that states that the written document accompanying the statement is very important, and that if the reader does not understand the document, the reader should seek immediate help. The written statement must accompany all written information given by the department or a local agency to an applicant or recipient.

REPEALER. Minnesota Rules, parts 9500.0750; 9500.0760; 9500.0770; 9500.0780; 9500.0790; 9500.0800; 9500.0810; 9500.0820; 9500.0830; 9500.0840; 9500.0850; 9500.0860; 9500.0910; 9500.0920; 9500.0930; subparts 1 to 3; 9500.0940; and 9500.0950 are repealed. Minnesota Rules, parts 9505.0211 [Emergency] and 9505.0212 [Emergency] are repealed.

Bureau of Mediation Services

Proposed Permanent Rules Relating to Fair Share Fee Assessment

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Director, Bureau of Mediation Services, proposes to amend the above-entitled rules without a public hearing. The Director has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.22-14.28.

Persons interested in this rule are encouraged to submit comment in support of or in opposition to the proposed rule and shall have 30 days to do so. Each comment should identify the portion of the proposed rule being addressed, the reason the comment is being made, and any changes in the proposed rule which are being suggested. The proposed rule may be modified if the modifications are supported by the data and comments received by the Bureau and do not result in substantial change in the intent and purpose of the proposed rule.

Unless 25 or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address and are encouraged to identify the portion of the proposed rule addressed by their request, the reason for the request, and any changes in the proposed rule which are being suggested. In the event a public hearing is required, the Bureau will proceed pursuant to Minnesota Statutes, sections 14.11-14.20.

Comments or written requests for a public hearing on these proposed rules should be submitted to:

Paul W. Goldberg, Director
Minnesota Bureau of Mediation Services
205 Aurora Avenue
St. Paul, MN 55103
(612) 296-2525

Authority to adopt this rule is contained in Minnesota Statutes, section 179A.04, subdivision 3(f). A Statement of Need and Reasonableness that describes the need for and the reasonableness of the proposed rule and the information relied upon to support the amendment has been prepared and is available upon request from the Bureau at the above address or telephone number.

Upon adoption of the final rule without a public hearing, the proposed rule, 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 Rule as Adopted, should submit a written request to the address provided above.

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

Copies of this notice and the proposed rule are available and may be obtained by contacting the Bureau at the above address or telephone number.

9 June 1986

Paul W. Goldberg, Director
Bureau of Mediation Services

Rules as Proposed**5510.1410 FAIR SHARE FEE CHALLENGE PETITION REQUIREMENTS.**

Subpart 1. **Advance notice of fair share fee assessment.** The exclusive representative must provide written notice of the amount of the fair share fee assessment to the director, the employer, and each employee assessed: upon initial implementation of the fair share fee assessment; to employees hired after the original notice has been issued; and upon a change in the amount of the fair share fee assessment. The notice must contain:

A. to C. [Unchanged.]

D. ~~a statement identifying benefits available only to members of the exclusive representative and the monetary cost of the regular membership dues attributable to each benefit~~ sufficient information to identify expenditures for benefits available only to members of the exclusive representative and sufficient information to identify expenditures for collective bargaining and contract administration services that have been provided for bargaining unit employees without regard to membership status;

E. and F. [Unchanged.]

Subp. 2. **Employer provided information.** Unless an alternate method of fair share notice procedure has been requested and approved by the director, the employer shall provide to the exclusive representative the name, home mailing address, and social security number or other necessary payroll deduction information for all employees in the appropriate unit. Questions of necessary payroll deduction information shall be determined by the director.

Subp. 3. **Mailing notice.** Unless an alternate method of fair share notice procedure has been requested and approved by the director, the notice of the fair share fee assessment shall be mailed by the exclusive representative to the employee's last known home mailing address provided by the employer.

Subp. 4. [Unchanged.]

5510.1510 FAIR SHARE FEE CHALLENGE PETITION.

Subpart 1. **Filing petition.** A petition challenging a fair share fee assessment may be filed by individual employees and must include:

A. to H. [Unchanged.]

I. the benefits asserted to be available only to members of the exclusive representative the amount by which the fair share fee assessment should be adjusted to conform to the statutory prerequisites of Minnesota Statutes, section 179A.06, subdivision 3;

J. a statement regarding whether the cost of benefits asserted to be available only to members is greater than the amount by which the regular membership dues were reduced in establishing the amount of the fair share fee; the specific activities or expenditures of the exclusive representative which the challenger believes are not in conformance with the statutory prerequisites of Minnesota Statutes, section 179A.06, subdivision 3; and

K. the amount by which the fair share fee should be reduced; and

~~L.~~ the date on which the petitioner received notice of the fair share fee assessment.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Receipt of petition.** Upon receipt of the challenge petition and filing fee, the director shall provide ~~a written receipt to the petitioner~~ the challenger with an acknowledgement and receipt, along with a copy of the rules governing such challenge.

Subp. 5. **Service on exclusive representative and employer.** A copy of the challenge petition shall be served by the petitioner upon the exclusive representative and the employer, in person or by mail, within the 30-calendar-day challenge period. ~~A petition not timely served shall be dismissed. Failure to serve a copy of a challenge petition upon the exclusive representative or employer in a timely manner shall be grounds for dismissing the petition.~~

Subp. 6. [Unchanged.]

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

5510.1710 ~~FAIR SHARE FEE APPLICATION~~ APPLICABILITY OF FAIR SHARE FEE CHALLENGE DETERMINATION.

The determination of the validity of the amount of the fair share fee assessment shall apply from the effective date of the assessment being challenged to all employees in an appropriate unit who have an employment relationship which is similar to the petitioner, and who were assessed the same fair share fee.

Fair share fee determinations based on lack of proper notice apply only to employees who have filed a challenge.

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.

Energy and Economic Development Authority Financial Management Division

Outside Opinion Sought Regarding Proposed Rules Governing Waste Tire Recycling Loans

Notice is hereby given that the Minnesota Energy and Economic Development Authority is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing the Waste Tire Recycling Loan Program. The adoption of the rule is authorized by Minnesota Statutes, sections 116M.07 subd. 3 and 116M.08 subd. 4, which require the agency to adopt rules for its financial assistance programs.

The Minnesota Energy and Economic Development Authority requests information and comments concerning the subject matter of the rule. Interested or affected persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to:

Jeanne Endahl
Financial Management Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 612-297-1981 and in person at the above address.

All statements of information and comment shall be accepted until July 18, 1986. Any written material received by the Minnesota Energy and Economic Development Authority shall become part of the rulemaking record in the event that the rule is adopted.

Department of Energy and Economic Development Business Financial Management Division

Notice of Tax Exempt Financing Issuance Authority

Notice of Availability

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 22

The Department gives notice that the amounts of tax exempt financing issuance authority available to qualified issuers as of June 16, 1986, is as follows:

Competitive Pool (Existing Law)**Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13**Total Pool Available (Priority to Manufacturing Projects) \$293,422,800.

For:

Pollution Control/Waste Management Projects \$ 54,064,560.Commercial Redevelopment Projects \$ 95,312,980.**Competitive Pool (Federal Volume Limitation Act)****Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 19**Total Pool Available (Priority to a-General Obligation Projects, \$284,741,237.

b-Manufacturing Projects)

For:

Pollution Control/Waste Management Projects \$ 59,856,247.Commercial Redevelopment/Multifamily Housing Projects \$101,008,432.**Qualified 501(c)(3) Bond Pool (Federal Volume Limitation Act)****Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 20**Total Pool Available \$ 76,900,000.

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13, Subd. 2, Section 19, Subd. 2, Section 20, Subd. 3, and Section 21, Subd. 2, issuers requesting allocations of issuance authority must submit applications, any applicable deposit and any other supporting documents required. Application forms are available from the Department upon request.

**Department of Health
Office of Health Systems Development****Outside Opinions Sought Concerning a Request for a Waiver of HMO Statutes and Rules by Primary Care Network**

Notice is hereby given that the Department of Health is seeking opinions and comments pertaining to a request by Primary Care Network for a waiver of HMO statutes and rules regarding coverage of outpatient prescription drugs in group contracts covering fewer than 50 enrollees. Waivers of prescription drugs are authorized for demonstration projects by Minn. Stat. § 62D.30.

The request submitted by Primary Care Network is available for inspection during normal business hours at the following location:

Alternative Delivery Systems
Room 450
Minnesota Department of Health
Minneapolis, Minnesota 55440

Comments on the request must be received by June 30, 1986.

**Departments of Human Services, Health, and Public Safety
Merit System****Outside Opinion Sought Concerning Merit System Rules**

Notice is hereby given that the Minnesota Department of Human Services, the Minnesota Department of Health and the Minnesota Department of Public Safety are considering proposed amendments to Minnesota Rules, parts 9575.0350, 9575.1500-9575.1580, 4670.1320, 4670.4200-4670.4240, 7520.0650 and 7520.1000-7520.1100.

The proposed changes will affect the Merit System's compensation plans and salary schedules for 1987.

OFFICIAL NOTICES

The agency's authority to amend the proposed rules is contained in Minnesota Statutes, sections 256.012, 144.071 and 12.22, subd. 3.

All interested or affected groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Ralph W. Corey, Supervisor
Minnesota Merit System
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3996.

All statements of information and comment will be received until further notice. Any written material received by the Department shall become part of the hearing record.

Department of Labor & Industry

Notice of Correction to Prevailing Wage Rates

The commercial wage rates certified on June 1, 1986 for labor classification *420 ROOFER* in Big Stone, Swift and Traverse counties were certified in error.

The correct rates may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155.

Steve Keefe, Commissioner
Department of Labor & Industry

Minnesota Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to the Sentencing Guidelines

The Minnesota Sentencing Guidelines Commission will hold a public hearing on Thursday, July 24, 1986, at 5:30 PM in Hearing Room 10, Ground Floor, State Office Building, 435 Park, St. Paul, Minnesota. The public hearing is to consider proposed modifications to the sentencing guidelines regarding rankings for crimes created by new legislation, effective date of guideline modifications, permissive consecutive escape sentences, increased durations for severity level X, and additional aggravating departure factors.

Copies of the proposed modifications are available, free of charge, by contacting the Minnesota Sentencing Guidelines Commission at 51 State Office Building, St. Paul, MN 55155, or by calling (612) 296-0144.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the Commission staff at the above address/telephone number.

The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On July 29, 1986, the Commission will meet in Room 10, State Office Building, 435 Park Street, St. Paul, Minnesota to formally adopt or reject the proposed modifications. If adopted the modifications as indicated will become effective August 1, 1986. Those requiring legislative review will become effective August 1, 1987 absent legislative action to the contrary.

Proposed Modifications Effective August 1, 1986

Proposed Addition to Section II.D.2.b. (Aggravating Factors for Departure)

(6) The offender committed, for hire, a crime against the person.

(7) The offender committed a crime against the person in furtherance of criminal activity by an organized gang where an organized gang is defined as an association of five or more persons, with an established hierarchy, formed to encourage gang members to perpetrate crimes or to provide support to gang members who do commit crimes.

Proposed Change to Section II.F.3. (Concurrent/Consecutive Sentences):

3. When the conviction is for escape from lawful custody, as defined in Minn. Stat. § 609.485 and there are unexpired or current executed sentences for any offense for which the person was in custody at time of the escape and/or current executed sentences for offenses committed while on escape status.

Proposed Addition to Section II. G. (Convictions for Attempts or Conspiracies) is as follows:

G. **Convictions for Attempts or Conspiracies:** For persons convicted of attempted offenses or conspiracies to commit an offense, the presumptive sentence is determined by locating the Sentencing Guidelines Grid cell defined by the offender's criminal history score and the severity level of the completed offense, and dividing the duration contained therein by two, but such sentence shall not be less than one year and one day except that for Conspiracy to Commit a Controlled Substance offense as per Minn. Stat. § 152.09, in which event the presumptive sentence shall be that for the completed offense. Further, the presumptive disposition for Conspiracy to Commit or Attempted First Degree Murder, Minn. Stat. § 609.185, or Conspiracy to Commit or Attempted First Degree Murder of an Unborn Child, Minn. Stat. § 609.2661, with 609.17 or 609.175 cited, shall be imprisonment for all cases. The presumptive durations shall be as follows: . . .

Proposed Addition to Section III.F. (Related Policies) is as follows:

F. **Modifications:** Modifications to the Minnesota Sentencing Guidelines will be applied to offenders whose date of offense is on or after the specified modification effective date. For offenses which occur over a period of time the date the latest offense occurred shall be used. Modifications to the Commentary will be applied to offenders whose date of sentence is one or after the specified effective date.

Proposed Change to Section IV. Sentencing Guidelines Grid:

	0	1	2	3	4	5	6
X	216 212-220	236 231-241	256 250-262	276 269-283	296 288-304	316 307-325	336 326-346

Proposed Changes to Section V. Offense Severity Reference Table are as follows:

X Murder 2 of an Unborn Child—609.2662(1)

IX Murder 2 of an Unborn Child—609.2662 (2)
Murder 3 of an Unborn Child—609.2663

VIII Assault 1 of an Unborn Child—609.267
Death of an Unborn Child in Commission of Crime—609.268, subd. 1
Manslaughter 1 of an Unborn Child—609.2664 (1) & (2)
Prostitution (Patron)—609.324, subd. 1(a)
Receiving Profit Derived from Prostitution—609.323, subd. 1
Solicitation of Prostitution—609.322, subd.1

VII Manslaughter 1 of an Unborn Child—609.2664 (3)
Manslaughter 2 of an Unborn Child—609.2665 (1)
Sale of Cocaine—152.15, subd. 1(1)
Sale of Hallucinogens or PCP—152.15, subd. 1(1)
Sale of Heroin—152.15, subd. 1(1)
Sale of Remaining Schedule I & II Narcotics—152.15, subd. 1(1)

OFFICIAL NOTICES

- VI
- Escape from Custody—609.485, subd. 4(4) (5)
 - Sale of Cocaine—152.15, subd. 1(4) (2)
 - Sale of Hallucinogens or PCP—152.15, subd. 1(2) (3)
 - Sale of Heroin—152.15, subd. 1(4) (2)
 - Sale of Remaining Schedule I & II Narcotics—152.15, subd. 1(4) (2)
 - Tax Evasion on Cocaine—297D.09, subd. 1
 - Tax Evasion on Hallucinogens or PCP—297D.09, subd. 1
 - Tax Evasion on Heroin—297D.09, subd. 1
 - Tax Evasion on Remaining Schedule I & II Narcotics—297D.09, subd. 1

- V
- Criminal Vehicular Operation—609.21, subd. 1 & 3
 - Manslaughter 2 of an Unborn Child—609.2665 (2), (3), & (4)
 - Prostitution (Patron)—609.324, subd. 1 (b)
 - Receiving Profit Derived from Prostitution—609.323, subd. 1a
 - Solicitation of Prostitution—609.322, subd. 1a

- IV
- Assault 2 of an Unborn Child—609.2671
 - Injury of an Unborn Child in Commission of Crime—609.268, subd. 2

- III
- Criminal Vehicular Operation—609.21, subd. 2 & 4
 - Prostitution (Patron)—609.324, subd. 1(c)
 - Sale of Remaining Schedule I, II, and III Non-Narcotics—153.15, subd. 1(2)(3)
 - Solicitation of Children to Engage in Sexual Conduct—609.352, subd. 2

- II
- Sale of Marijuana/Hashish/Tetrahydrocannabinols—152.15, subd. 1(2)(3)
 - Sale of a Schedule IV Substance—152.15, subd. 1(3)(4)
 - Tax Evasion on Remaining Schedule I, II, & III Non-Narcotics—297D.09, subd. 1

- I
- Escape from Custody—609.485, subd. 4 (2)
 - Tax Evasion on Marijuana/Hashish/Tetrahydrocannabinols—297D.09, subd. 1
 - Tax Evasion on Schedule IV Substances—297D.09, subd. 1

Proposed Change to Section V. *Theft Offense List* is as follows:

Diversion of Corporate Property.
~~300.60~~ 609.52, Subd. 2 (15) and (16)

Proposed Modifications Effective August 1, 1987 Barring Legislative Action to the Contrary

Proposed changes to Section V. Offense Severity Reference Table are as follows:

- III Theft Crimes—\$250—\$2,500 or less (See *Theft Offense List*)
- II Theft Related Crimes—\$250—\$2,500 or less (See *Theft Related Offense List*)
- I Financial Transaction Card Fraud—609.821, subd. 2(3) & (4) Voting Violations—201.014, 201.016, 201.054

Proposed Change to Section V. *Theft Offense List* is as follows:

It is recommended that the following property crimes be treated similarly. This is the list cited for the two Theft Crimes (~~\$250—~~ \$2,500 or less and over \$2,500) in the Offense Severity Reference Table.

Proposed Change to Section V. *Theft Related Offense List* is as follows:

It is recommended that the following property crimes be treated similarly. This is the list cited for the two Theft Related Crimes (~~\$250—~~ \$2,500 or less and over \$2,500) in the Offense Severity Reference Table.

Financial Transaction Card Fraud
609.821, subd. 2(1), (2), (5), (6), (7)

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 completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

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

Department of Administration—Procurement Division

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyer

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Lease/Purchase of Photocopy Machine	June 23, 1986	Natural Resources	St. Paul	29-000-43988
Innerspring Units	June 23, 1986	MN Correctional Facility	St. Cloud	78-830-08080
Vacuum Evaporator	June 24, 1986	Health Department	Minneapolis	12-400-91862
Roller Towel Service, Capitol Complex	June 24, 1986	Administration Dept.— Plant Mgmt.	St. Paul	Price-Contract
DNR Uniform Clothing & Accessories	June 24, 1986	Natural Resources	Various	29-000-40947 Various
Fuel Storage Tanks	June 24, 1986	Transportation	St. Paul	79-000-52827
Rubbish Disposal	June 25, 1986	Southwest State University	Marshall	26-175-06652
Accident Reconstruction Studio	June 25, 1986	Public Safety	New Brighton	07-500-36686
All Risk Personal Property Insurance	June 25, 1986	MN Housing Finance Agency	St. Paul	34-000-04937
Carpeting Only, No Installation	June 25, 1986	Moorhead State University	Moorhead	26-072-09676
Biological Specimens & Dissect- ing Supplies	June 25, 1986	Various	Various	Price-Contract
Remodeling & Painting	June 25, 1986	MN Correctional Facility	Sauk Centre	78-770-02257
Library Furniture: Charging Desk	June 25, 1986	Anoka Ramsey Community College	Coon Rapids	27-152-46298
Library Shelving	June 25, 1986	Anoka Ramsey Community College	Coon Rapids	27-156-46296, 46297
Presorting Mail by Zip Code	June 25, 1986	Public Employees Retirement Assn	St. Paul	Price-Contract

STATE CONTRACTS

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Floor Maintenance Equipment	June 25, 1986	Administration Plant Mgmt.	St. Paul	02-307-48465
Crushed Rock Salt	June 26, 1986	Transportation	Various	Price-Contract
Lounge Area Furniture	June 26, 1986	Human Services Regional Treatment Center	Willmar	02-310-14755 02-310-14755, 14756
Ammunition (Rebid)	June 26, 1986	Public Safety	St. Paul	07-500-36691
Carpet Shampooer	June 26, 1986	Mankato State University	Mankato	26-071-16603
Reroofing	June 26, 1986	Public Safety	Eagan	07-700-36697
Road Resurfacing	June 26, 1986	Natural Resources	Grand Rapids	29-002-12124
Modular Office System	June 27, 1986	Transportation	Golden Valley	79-000-52723
Lease/Purchase of Data Commu- nication System	June 27, 1986	Community College System	St. Paul	27-138-03522
Service Contract for Environmen- tal Controls	June 27, 1986	Southwest State University	Marshall	26-175-06653
Class Schedule Typesetting	June 30, 1986	Metropolitan State University	St. Paul	26176-02610-8553
Special PERA Newsletter	June 30, 1986	PERA-Central Mail	St. Paul	63000-00883-7957
1986-88 Catalog	June 30, 1986	Metropolitan State University	St. Paul	26176-02612-8555
Class Schedule Printing	June 30, 1986	Metropolitan State University	St. Paul	26176-02611-8554
Ammunition	June 30, 1986	Public Safety	St. Paul	07500-36691
Pickup	June 30, 1986	Natural Resources	Grand Rapids	29000-43863
4-Wheel Articulated Loader	June 30, 1986	Mankato State University	Mankato	26071-16296
Cargo Trailer	June 30, 1986	Public Safety	St. Paul	07200-36717
Telephone System	June 30, 1986	Natural Resources	Silver Bay	29002-12285
Dishless Server System	June 30, 1986	MN Correctional Facility	Oak Park Heights	78630-06463
Infrared Spectrometer	June 30, 1986	Public Safety	St. Paul	07300-38054
Tank-Storage	June 30, 1986	Natural Resources—Field Service	Brainerd	29003-10043

Department of Health

Request for Proposal for Banking Services for Women, Infants and Children Program

The Department of Health will be soliciting bids for banking services for its Women, Infants and Children Program for the period 10/01/86 to 09/30/88. These services include, but are not limited to, payment of checks, depositing of funds, and reporting activity on a monthly basis. Estimated cost of contract is \$480,000. For a copy of the request for proposal, please contact Mr. David Hovet at (612) 623-5072, 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, MN 55440.

Department of Human Services

Cambridge Regional Human Services Center

Request for Proposal for Medical Services for Delivery of Comprehensive Habilitation and Treatment Services for Multiply and Severally Handicapped Individuals

Notice is hereby given that the Cambridge Regional Human Services Center, Dept. of Human Services is seeking the services of an individual at the PhD. level whose specialty is the delivery of comprehensive habilitation and treatment strategies for multiply and severally handicapped individuals. The services are to be performed for the period July 1, 1986 through June 30, 1987.

The tasks include the development of specific teaching strategies, design of a comprehensive program evaluation component, provision of consultation and inservice training to programmers and supervisors, and provision of assistance in preparing a grant proposal to obtain special funding for a number of specific projects.

The consultant will have to perform these services at the Cambridge Regional Human Services Center facilities two days a month. The estimated amount of the contract will be \$6,000.00.

Responses to this notice must be received by July 14, 1986.

Direct inquiries to:

Michael Tessneer, Acting Chief Executive Officer
Cambridge Regional Human Services Center
Cambridge, MN 55008
Phone: (612) 689-2121 Ext. 431

Department of Human Services Cambridge Regional Human Services Center

Request for Proposal for Medical Services of a PhD. in Psychology

Notice is hereby given that the Cambridge Regional Human Services Center, Dept. of Human Services is seeking the services of an individual with a PhD. in Psychology whose areas of expertise include the delivery of services for developmentally disabled individuals in need of specialized psychological evaluation, regular counseling and therapy sessions to address specific problem areas (e.g. sex training and therapy). The tasks of the consultant also include provision of specific inservice training to staff members who deal with residents daily.

The consultant will have to perform these services at the Cambridge Regional Human Services Center facilities for the period July 1, 1986 through June 30, 1987. The estimated amount of the contract will be \$13,000.00.

Responses to this notice must be received by July 14, 1986.

Direct inquiries to:

Michael Tessneer, Acting Chief Executive Officer
Cambridge Regional Human Services Center
Cambridge, MN 55008
Phone: (612) 689-2121 Ext. 431

Department of Human Services Cambridge Regional Human Services Center

Request for Proposal for Medical Services of a Qualified Psychiatrist

Notice is hereby given that the Cambridge Regional Human Services Center, Dept. of Human Services is seeking the services of a qualified psychiatrist. The services are to be performed for the period July 1, 1986 through June 30, 1987 at the Cambridge Regional Human Services Center facilities.

The tasks are as follows:

1. To provide consulting psychiatric services to Cambridge Regional Human Services Center including:
 - A. Evaluation and treatment of referred residents.
 - B. Formulation and implementation of individualized psychiatric treatment plans, including, but not limited to, diagnosis, prescription and reduction of drugs/medication, individual programs, and other appropriate treatment modalities.
 - C. To conduct clinics and review progress of residents psychiatric programs. This shall be done on as needed basis, as determined by the unit physician or the resident's treatment team.
 - D. Emergency psychiatric consultation by phone.
 - E. Cooperation with legal and social service entities by furnishing medical psychiatric information known to the consultant when appropriate and by responding to legal process.
 - F. Meeting with staff on the resident's unit to assist in developing, implementing and monitoring goals and objectives for the resident's individualized treatment program.
 - G. Other related duties as assigned by the Medical Director.
2. Provide necessary information for clinical privileges.

STATE CONTRACTS

3. Practice within the guidelines set forth by ICF-MR, ACMRDD, and the State of Minnesota.

The estimated amount of the contract will be \$58,300.00.

Responses to this notice must be received by July 14, 1986.

Direct inquiries to:

Michael Tessneer, Acting Chief Executive Officer
Cambridge Regional Human Services Center
Cambridge, MN 55008
Phone: (612) 689-2121 Ext. 431

Department of Human Services Long-Term Care Management Division

Request for Proposals (RFP) for Property Appraisal Services

The Department of Human Services is requesting proposals to coordinate, conduct, and monitor on-site property appraisals of a 15 percent sample of all nursing homes and boarding care homes in the State of Minnesota participating in the Medical Assistance Program. In addition to the sample appraisals, special on-site reappraisals will also be conducted as assigned. The depreciated replacement cost method (as set forth in the Department's Project Design Proposal) must be used to appraise buildings, land improvements, and attached fixtures related to resident care in each facility. Land and moveable equipment are not included in the appraisal. The appraisal value will in part determine for each facility the property-related payment rate, effective July 1, 1987.

The project will require the development and validation of standardized appraisal procedures and report formats, training and supervision of field appraisers, establishment of quality control mechanisms and actual on-site appraisals of all assigned facilities. Procedures, methods, and documentation must be consistent statewide and equitable for all facility types. The proposed plan must also include a strategy to identify and address legal issues which may arise from contested appraisals.

The contract period is from September 1, 1986 through June 30, 1987. The sample appraisals must be completed and supportive documentation submitted to the state by January 1, 1987. The proposal should be comprised of two separate bids. One bid should be for the on-site appraisals of approximately 85 nursing homes and boarding care homes and must include an itemization of such expenses as the cost per facility appraised, and the estimated travel costs. The total cost of this portion of the project must not exceed \$55,000. The other bid should be for consultation with Department staff concerning appraisal appeals and must include an itemization of the cost per hour of appeal consultation, hearing preparation and expert testimony, and the associated travel costs. The total cost of this portion of the project must not exceed \$45,000.

The complete RFP document which gives a detailed description of the project and guidelines for proposal preparation is available to interested persons. Requests for copies of the RFP document and proposals in response to the RFP should be directed to:

Gina Grannes
Department of Human Services
Long-Term Care Management Division
Space Center, Sixth Floor
St. Paul, MN 55101
Telephone: 612/296-2862

Six copies of the proposal must be received by the Long-Term Care Management Office, Department of Human Services by Monday, July 28, 1986; **no later than 4 p.m.** The name and address of the person who prepared the proposal should be stated.

Department of Jobs and Training

Request for Proposals for Operation of Dislocated Worker Program

In accordance with Laws of 1979, Chapter 336, the Minnesota Department of Jobs and Training, State Job Training Office, is requesting proposals from qualified bidders to operate dislocated worker programs in the State of Minnesota. Approximately \$990,000 will be available for dislocated worker programs to operate in Federal Program Year 1986.

Of this amount, it is estimated that about \$330,000 will be made available for programs commencing after July 1, 1986; another approximate \$330,000 will be made available for programs commencing November 1, 1986 or thereafter; and about \$330,000 will be made available for programs commencing March 1, 1987 or thereafter.

Request For Proposal Application is available upon request. Inquiries and request should be directed to:

Edward Retka
State Job Training Office
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Phone: (612) 296-7918

Proposals will be accepted by the State Job Training Office according to the following schedule:

- For funding after July 1, 1986, proposals will be accepted until 4:30 p.m., July 15, 1986.
- For funding after November 1, 1986 proposals will be accepted until 4:30 p.m., October 3, 1986.
- For funding after March 1, 1987, proposals will be accepted until 4:30 p.m., February 6, 1987.

Department of Labor and Industry Workers' Compensation Division

Request for Proposals for Medical Consultant

The Minnesota Department of Labor and Industry is requesting proposals from eligible physicians who would be able to serve as medical consultant to the Rehabilitation Services Section of the Workers' Compensation Division, and to the Rehabilitation Review Panel and Medical Services Review Board, for the time period of July 1986 through June 30, 1987. Qualifications for the position include: current active practice of medicine, preferably with active practice in the area of workers' compensation; recognized standing in the professional community in the form of current or recent chairmanships or memberships of the Minnesota Medical Association and relevant professional associations; experience in working with governmental agencies; familiarity with the state workers' compensation rehabilitation program and other relevant programs; and interest in assisting the Department of Labor and Industry in developing and achieving its goals in the planning and implementation of an effective workers' compensation rehabilitation and medical services program, the regulation of current services, and the development of appropriate guidelines and standards.

Minimum tasks include: assisting the Department and its boards in the development and administration of rules and regulations pertaining to workers' compensation medical and rehabilitation services, representing the Department to various professional, governmental and public entities, providing general technical assistance to the Department, and providing regular progress reports on program operations.

Candidates must respond in the form of a proposal to enter into a contract as required by the Department of Labor and Industry. Maximum reimbursement for a total of 1500 to 2000 hours assistance will be \$90,000, which includes travel and expenses. The deadline for proposals, which must include current resume or curriculum vitae, is June 30, 1986.

Copies of the request for proposals, and related information, are available from:

Steve Keefe
Commissioner
Minnesota Department of Labor and Industry
500 Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101

NON-STATE PUBLIC CONTRACTS

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Great Lakes Country USA

Request for Proposal to Engage a Marketing Consultant for 1986 International Tourism July 1, 1986-June 30, 1987

BACKGROUND

State travel and tourism agencies in seven Great Lakes states (Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota and Iowa) oversee advertising and promotion campaigns to sell their individual states as travel destinations. They compete against each other and against other states for the domestic traveling dollar, but they also cooperate as a group to sell the Great Lakes region as a whole to international travelers. This regional group is called Great Lakes Country USA.

For the past three years, in various combinations, the seven states have participated jointly at the World Travel Market in London, the ITB in Berlin and JATA in Tokyo. At these travel trade market places, the cooperative state travel representative pool their promotional efforts on the assumption that international visitors do not choose one community or state to visit, but visit a larger region or area.

ORGANIZATION

The structure under which the Great Lakes Country USA operates is two-tiered. The first and policy-making group is the Great Lakes States Travel Directors, chaired for 1985-86 by John Savich, Travel Director of Michigan. The second group, the International Marketing Directors, represent the State Travel Directors and are the ones who actually implement the international program. The consultant's liaison for the Great Lakes States is the marketing director of the state whose travel director is chair. The 1985-86 liaison is Deborah Hart, Promotion Director of Michigan's Travel Bureau.

COOPERATIVE MARKETING

The Great Lakes States have defined their primary markets as the United Kingdom, German-speaking countries and Japan. (Marketing strategies for Canada are handled by individual states.) As mentioned above, the states have collectively exhibited at travel trade shows in Europe and Japan. Other joint cooperative activities have included:

- Publications of a four-language brochure, 1982
- Sales Mission to Japan, 1984
- Production of a Great Lakes film for Japan, 1984
- Fly-drive package with Iclander, 1985
- Publication of a Great Lakes Travel Planner in German and English with a price sheet, 1985
- Werner Schmidt coordinated a tour of the Great Lakes States for Meiers Welt Reisen's 1986 catalog
- Cooperative advertising for trade shows, 1985-86

SITUATION

To become more effective in attracting the international traveler requires great commitments of time, coordination and balance, more than any one state can provide or more than a representative committee can easily address. The projects of the home state are more immediate; the needs of the overall region take secondary priority.

The participating states believe in a growing need to position the Great Lakes region as a desirable vacation destination for international visitors. Since the international traveler may not be familiar with the Great Lakes states, individually, it appears more practical to promote this region as a large geographical area. By emphasizing accessibility through numerous points of entry, the international traveler will become acquainted with the vacation opportunities available, thus providing higher visibility for the area. Furthermore, the regional approach coincides with the United States Travel and Tourism Administration's (USTTA) promotional strategy of marketing the USA by region. Finally, it is more financially prudent to promote as a region than as a single state.

GOAL

The short-term goal of the Great Lakes Country USA is to work cooperatively to attract the more distant travelers and to continue to test new markets to increase travel in the region.

The member states of Great Lakes Country USA, therefore, are initiating a program during fiscal year July 1, 1986 to June 30, 1987 to coordinate the efforts of the states to bring balance and equity to the programs and to offer counsel to the Directors on proposed procedures and programs.

STRATEGY**AUDIENCE:**

The primary audience for this program is the travel trade and the media. Directors agree that efforts directed at those audiences, will thereby increase consumer awareness.

MESSAGES:

Great Lakes Country USA offers World-class recreational opportunities to travelers. This region, as a whole, is not only easily accessible and affordable to the international traveler, but it also provides scenic and undiscovered surroundings that exemplify the core of Americana.

RESPONSIBILITIES

The following means should be used to implement the International Marketing Strategy for Great Lakes Country USA and would be the primary responsibilities for the consultant.

SPECIFIC PROJECTS:

Identify a sponsor for and coordinate and produce a fly/drive brochure, organize distribution and ad campaign and produce materials (e.g. posters).

Coordinate the details for the Great Lakes Country USA participation at the ITB and World Travel Market. This would include coordinating all details regarding booth space and set-up, as well as acquisition of new booth materials.

Coordinate all aspects of a 10-day sales mission to three cities in Germany and London, England for spring of 1987. (38 participants)

ON-GOING:

Function as accountant and bookkeeping agent for Great Lakes Country USA. He/she will invoice the state of Minnesota, as fiscal agent for Great Lakes Country USA. This will require monthly budget analyses and appropriate record-keeping functions.

Attend quarterly meetings of the International Marketing Directors, usually held in the region.

Make written recommendations to the International Marketing Directors on ways to increase the visibility and influence of the Great Lakes region in the international market.

Recommend in writing a public relations plan as a means to provide current information about Great Lakes Country USA to the international trade and media. Implementation will be subject to the Directors' subsequent approval.

BID PROCESS

The **total budget** for this program for Great Lakes Country USA will be \$96,500, consultant fees and project costs for the fiscal year including from July 1, 1986 to June 30, 1987. The \$96,500 fee is based on the following assumptions:

A) All consultant fees and expenses (i.e. travel, meals, phone calls, etc.) will be included in the contract amount.

B) Production costs of the fly-drive brochure (i.e. layout, design, printing and translation) are included in the contract amount. If sponsors are secured, production costs may be offset and money would be available for other uses.

C) Costs associated with the upgrade of two booths to be used at WTM/ITB and Jata. Fees for trade shows are *not* included in the total budget.

D) All costs of sales mission including receptions in all markets, audio visual presentations, sales kits and promotional items.

Proposal should include the following:

1. An estimate of the number of hours, broken out by project, necessary to carry out the responsibilities indicated above. Include in the bid recommendations specifics on how the fly-drive brochure and the trade mission to England and Germany would be coordinated.

2. An itemized recommendation of how budget should be allocated.

3. The name, background, and related international experience of the individual who will handle this account.

To give us better indication of your ideas and abilities, please include answers to the following questions in your proposal:

1. What do you suggest would be the most productive promotional projects/avenues for the Great Lakes Country USA to pursue?

NON-STATE PUBLIC CONTRACTS

2. What do you perceive as the potentials for the Great Lakes region in the international market, and why?

SELECTION PROCESS

All proposals must be submitted no later than July 18, 1986 at 5:00 p.m. eastern time. Eight (8) copies of the proposal should be enclosed (to be distributed to the interviewing and screening committee). Late proposals will not be accepted. Prices and terms of the proposal, as stated, must be valid for the length of the project. All bids must be signed in ink by authorized member of the firm.

Send proposals to:

Deborah Hart, Promotions Director
Michigan Travel Bureau
P.O. Box 30226
Lansing, MI 48909

Decisions for finalists will be made July 30, 1986. Further interviews, if necessary, will be held on August 4, 1986 in Chicago. The Great Lakes Country USA reserves the right to refuse any and all proposals.

Please direct all questions regarding this proposal to Deborah Hart at 517/373-0670.

SUPREME COURT DECISIONS

Decisions Filed Friday 13 June 1986

Compiled by Wayne O. Tschimperle, Clerk

C7-84-2062 Donald E. Hughes, et al. v. Sinclair Marketing, Inc., f.k.a. Pasco, Inc., petitioner, Appellant, Sinclair Oil Corporation. Court of Appeals.

Evidence was sufficient to support liability on the basis of misrepresentation and improper non-renewal under the franchise act.

Damages for lost future profits may be awarded for misrepresentation under the franchise act when to limit damages to out-of-pocket losses would fail to return the plaintiff to its original condition. Relief for improper non-renewal of a franchise is not limited to injunctive relief.

Evidence was sufficient to support the damages awarded.

Respondents are not entitled to a remand for determination of a multiplier.

The appellate courts will, at the time of appeal, determine attorney fees for appellate work concerning suits brought under the franchise act.

Affirmed in part; reversed in part. Yetka, J.

CX-85-2146 Cecil R. Green, Relator v. Whirlpool Corporation, self-insured. Workers' Compensation Court of Appeals.

A settlement judge to whom a workers compensation matter is referred for settlement conference pursuant to Minn. Stat. § 176.305 (1984) does not have authority to grant a motion for an award on default.

Minn. R. 1415.1500 is invalid because it is inconsistent with Minn. Stat. §§ 176.321 and 176.331 (1984).

Affirmed. Kelley, J.

C1-84-1778 Northwestern National Bank of Minneapolis v. Joseph M. Shuster, petitioner, Appellant. Court of Appeals.

A motion to amend a counterclaim is properly denied where final judgment on claims and counterclaims before the court had been entered and affirmed on appeal.

Affirmed. Coyne, J.

ORDERS

C9-85-1506 In Re Second Judicial District District Court Vacancy. Supreme Court.

Continues judicial position in the Second Judicial District and reduces referee position subject to reconsideration. Amdahl, C.J.

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