

# Bulletin

July 18, 2008

Minnesota Department of Human Services □ P.O. Box 64941 □ St. Paul, MN 55164-0941

## OF INTEREST TO

- County Directors
- MinnesotaCare Operations Managers, Supervisors and Staff
- Financial Assistance Supervisors and Staff
- Mille Lacs Tribal TANF
- Social Services Supervisors and Staff
- Case Managers
- County Attorneys

## ACTION/DUE DATE

Please read and implement for applications and renewals received on or after August 1, 2008.

## EXPIRATION DATE

July 18, 2010

## 2008 Legislative Changes to Minnesota Health Care Programs

### TOPIC

Provides policies for 2008 legislative changes to Minnesota Health Care Programs that are effective on August 1, 2008.

### PURPOSE

To provide policies for 2008 legislative changes to Minnesota Health Care Programs that are effective on August 1, 2008.

### CONTACT

MinnesotaCare Operations, counties and tribal agencies should submit policy questions to Health Quest.

All others should direct questions to:

Health Care Eligibility and Access (HCEA) Division  
P.O. Box 64989  
540 Cedar Street  
St. Paul, MN 55164-0989

### SIGNED

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BRIAN J. OSBERG  
Assistant Commissioner  
Health Care Administration

## **Background and Introduction**

The 2008 Minnesota Legislature passed legislation that modified various policies to Minnesota Health Care Programs (MHCP). This bulletin is the first in a series that provides information and instructions on the new legislative changes.

This bulletin contains the following sections:

- I. New Tax Equity and Fiscal Responsibility Act (TEFRA) Notice Requirement
- II. New County Authority to File Cause of Action
- III. Annual Verification Requirement Removed for IV-E and State Adoption Assistance Children
- IV. Attachments
- V. Legal References
- VI. Special Needs

## **I. New TEFRA Notice Requirement**

### **A. Policy Prior to August 1, 2008**

Children enrolled in TEFRA are required to have their disability and level of care determination recertified periodically. Initially, the State Medical Review Team (SMRT) approves a TEFRA certification for up to a maximum of four years. The county agency notifies enrollees when their disability and level of care recertification is due.

SMRT faxes a notice, titled, "Ninety Day Notice," to the county agency ninety days prior to the time an enrollee's disability and level of care recertification is due. Workers also receive a MAXIS DAIL message (based on STAT/DISA panel) 60 days prior to the date the disability and level of care recertification is due. The county worker then notifies the enrollee that their TEFRA certification is due and what documentation is needed.

### **B. Policy Effective on or After August 1, 2008**

The 2008 legislation requires county agencies to notify TEFRA enrollees six months (180 days) prior to the date a SMRT disability and level of care recertification is due. Counties will now receive a fax from SMRT titled, "180 Day Notice," (See Attachment A). SMRT will fax the notice to counties seven months (210 days) prior to the date the TEFRA disability and level of care recertification is due. When workers receive the "180 Day Notice," they must send enrollees a notice to inform the enrollee that their SMRT disability and level of care recertification is due and a packet of TEFRA forms. Enrollees must receive the notice and the packet of TEFRA forms no later than six months (180 days) prior to the time the disability and level of care recertification is due. A TEFRA packet includes the following (see also HCPM 12.15 TEFRA Referrals to the State Medical Review Team (SMRT)):

1. A cover letter stating why the information is being gathered and when it is due.  
Note: DHS is developing a cover letter. It will be posted to E-docs when it is complete. Until developed, continue to follow your agency's administrative procedures to send notice of required documentation due within six months (180 days).
2. One of the following disability appropriate notices that describes the required documentation that must be submitted based on the enrollee's disability:
  - DHS-3854, SMRT – TEFRA Option, Required Documentation Physical Disability;
  - DHS-3855, SMRT – TEFRA Option, Required Documentation Developmental Disability; or
  - DHS-3856, SMRT – TEFRA Option, Required Documentation Mental Health Disability;
3. DHS-0161B, Children's Medical Examination; and,
4. DHS-2904A, Children's Activities of Daily Living

**C. Systems Instructions**

MAXIS will temporarily continue to generate a DAIL/DAIL message 60 days prior to the last TEFRA disability and level of care recertification date listed on the STAT/DISA panel. This notice is a reminder to workers to follow up with the client or authorized representative if the referral has not been completed. A DAIL/DAIL message that alerts workers to send the TEFRA information 180 days prior to the SMRT disability and level of care recertification is being developed.

**II. New County Authority to File Cause of Action**

**A. Policy Prior to August 1, 2008**

Prior to August 1, 2008, counties had the authority to file a cause of action against a person who received transferred assets for less than fair market value from a person requesting Medical Assistance (MA) payment of long-term care (LTC) services in specified situations. See HCPM 19.40.35.

**B. Policy Effective on or After August 1, 2008**

Effective August 1, 2008, the county may file a cause of action against a person who receives transferred assets for less than fair market value from an MA enrollee under two additional circumstances.

A cause of action may be filed when an MA enrollee who received MA payment of LTC services:

1. Made a transfer that was reported to the county but a penalty period could not be imposed because the MA enrollee died before the effective date of the transfer penalty; or
2. Made a transfer that was not reported to the county agency prior to the death of the enrollee and was made with the intention of avoiding estate recovery.

No cause of action exists unless the person who received the transferred assets:

- Knew or should have known the transfer was being made by an MA enrollee; and
- The person who received the transferred assets did not provide adequate compensation to the MA enrollee.

Workers or other county staff involved in estate claims should refer the case to their county attorney when a transfer that meets the criteria described above is discovered. The county attorney may give consideration to the factors below, among other factors, when determining an intention to avoid estate recovery.

- Was the transfer made to a family member?
- Did the person who made the transfer retain possession or control of the property after the transfer?
- Was the transfer concealed?
- Did the transfer include the majority of the assets of the person who made the transfer?
- Was the compensation received reasonably equivalent to the fair market value of the property?
- Did the transfer occur shortly before the death of the enrollee?

**Note to county attorneys:** The authority for counties to file a cause of action under Minnesota Statutes, Section 256B.0595, Subd. 1, paragraph (f); Subd. 2, paragraphs (a) and (b); Subd. 3, paragraph (b); Subd. 4, clause (5); and Subd. 8, can be found in Section 256B.0595, subd. 9.

### **C. Systems Instructions**

None

## **III. Annual Verification Requirement Removed for IV-E and State Adoption Assistance Children**

### **A. Policy Prior to August 1, 2008**

Children who are eligible for IV-E or state adoption assistance are exempt from completing six-month and annual renewal forms. However, the worker must verify annually that the adoption assistance agreement remains in effect.

DHS adoption assistance staff supply an annual affidavit to the parents of adoption assistance children to certify that the child remains under their care and that the need for adoption assistance continues. After the parents complete and return the affidavit, DHS forwards a copy to the child's county of residence. Workers use the annual affidavit to

verify continued MA eligibility under an adoption assistance basis. Workers may also contact DHS adoption assistance staff to confirm continued eligibility in place of the annual affidavit.

**B. Policy Effective on or After August 1, 2008**

Effective August 1, 2008, an annual affidavit is no longer required to verify continued IV-E or state adoption assistance eligibility for continued MA eligibility. DHS will no longer supply or send an annual affidavit to parents or the county of residence. Annual verification or contact with DHS adoption assistance staff is no longer needed to verify Adoption Assistance at annual renewal. Children who receive IV-E or state adoption assistance are automatically eligible for MA without a separate application or eligibility determination until adoption assistance ends. If adoption assistance ends, re-determine eligibility according to policy in the HCPM based on changes reported.

**C. System Instructions**

None

**IV. Attachments**

Attachment A: 180 Day Notice

**V. Legal References**

Laws of Minnesota 2008, Chapter 220

Laws of Minnesota 2008, Chapter 326, Article 1, Sections 27 and 28

Laws of Minnesota 2008, Chapter 361, Article 6, Sections 14 and 59

**VI. Special Needs**

This information is available in other forms to people with disabilities by contacting us at (651) 431-2283 or toll free at (800) 938-3224, or through the Minnesota Relay Service at (800) 627-3529 (TDD), 711 or (877) 627-3848 (speech to speech relay service).



Minnesota Department of **Human Services**

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## 180 DAY NOTICE

TO: County Social Services  
or current agency contact person

FROM: Department of Human Services - State Medical Review Team (SMRT)  
P.O. Box 64984  
St. Paul, MN 55164-0984

SUBJECT: Disability Application for  
Case#:  
PMI#:

**NOTE: IF THIS CLIENT IS NO LONGER ON TEFRA, PLEASE  
DISREGARD THIS NOTICE.**

Our records indicate that your client's TEFRA certification will expire on {end date}. We ask that you gather the necessary information and submit it to the State Medical Review Team at least 30 days prior to the certification end date. Enclosed you will find a list of what is required to complete the determination for your client. This list should be forwarded to your client, doctors, rehab specialists, schools, hospitals, clinics, and any other professional who may provide information regarding disability.

We ask that you make sure that the case is complete before submitting it to the SMRT.

Please submit this client's case for review before:

If you have any questions, you may contact the SMRT at (651) 431-2493.

Thank you for your cooperation.

SMRT

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