

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Health
(Agency or Board)

Regulation No. MHD 367 thru 375 (amended)

Subject: Health Maintenance Organizations

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

OCT 18 1974 4:10 pm

BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 10-18-74

Rev. 9-72

Adopted by the Minnesota State Board of Health

PROPOSED H.M.O. REGULATIONS

Amendments to Minn. Reg. MHD 291-305

The numbering of the rules will be changed, according to the table at the end of the proposed amendments. The proposed amendments follow, adopting the new numbering system.

Amend MHD 367 as follows:

367(e)(4) "Outpatient ~~medical~~ health services" means ambulatory care including health supervision, preventive, diagnostic and therapeutic services, including diagnostic radiologic, treatment of alcohol and other chemical dependency, treatment of mental and emotional conditions, provision of prescription drugs and other supportive treatment.

(5) "Preventive ~~Medical~~ Health services" means health education, health supervision including evaluation and follow-up, immunization and early disease detection.

(k) "Enrollee copayment provisions" means those contract clauses requiring charges to enrollees, in addition to fixed, prepaid sums, to supplement the cost of providing covered comprehensive health maintenance services; "enrollee copayment provisions" also means the difference between an indemnity benefit and the charge of a provider for health services rendered.

(m) "Open Enrollment" means the acceptance for coverage by health plans of group enrollees without regard to underwriting restrictions, and coverage of individual or non-group enrollees with regard only to those underwriting restrictions permissible under Minn. Stat. §62D.10, Subd. 2.

(n) "Underwriting restrictions" means those internal predetermined standards within a health maintenance organization which specify and exclude from coverage certain health conditions or persons with certain health conditions which, if such persons or conditions were enrolled or covered, would obligate the health maintenance organization to provide a greater amount, kind or intensity of service than that required by the general population or that contemplated in the process of setting the prepayment amount.

(o) "Period of confinement" means a period of time specified in a health maintenance contract relating to the amount of days of inpatient hospital care and defining a period during which an enrollee may not receive any inpatient hospital care in order to become entitled to a renewed period of hospital coverage. This term means the same as "spell of illness" and similar terms as they may be used in provisions to limit hospital care.

Amend MHD 368 as follows:

368(a)(2) Any financial arrangements between members of the board of directors/principal officers and any provider or other person, which provider or other person also has a financial relationship with the health maintenance organization. ~~This information shall be required only if any financial arrangements between members of the board of directors/principal officers and any provider/other person relate to the provider or other person's relationship with the health maintenance organization~~. The disclosure shall include:

(aa) A description of the obligations to be met by each party in accordance with any such arrangements; ~~and~~

(bb) A listing of the dollar amounts of the consideration to be paid each party in accordance with any such arrangements.~~-~~; and

(cc) A listing and description of any circumstances under which a director/principal officer is employed by or engages in a substantial commercial or professional relationship with any provider/other person.

(b) Insurance. Each application for a certificate of authority shall attach pertinent documents, including copies of insurance contracts, in verification of compliance with Sections 62D.04, Subd. 1(f); 62D.05, Subd.12, Subd. 4 and Subd. 9, and 62D.13 of the Act with respect to assumption of risks and insurance against risks.

(d)(2) Gross utilization aggregates, including hospital ~~admissions~~ discharges, surgical hospital discharges, hospital bed days, outpatient visits, laboratory tests, and x-rays;

(e) Provider agreements. The application shall include copies of all types of agreements with providers by virtue of which enrollees will receive health care from the providers, and a description of any other relationships with providers who might attend enrollees together with a statement describing the manner in which these other relationships assure availability of health care.

~~(e)~~(f) Other Requirements. Each application must also include documentation and/or evidence of compliance with all of the requirements of the Act and these regulations, and the Board may require such other information in applications for certificates of authority as it feels is necessary to make a determination on the application.

Amend MHD 369 as follows:

(b)(5) A determination of financial responsibility shall include consideration of a health maintenance organization's insurance coverage of its own risks and the risks it may bear in agreeing to provide services to enrollees relative to the organization's own financial reserves and surplus. These considerations must give full force and effect to Minn. Stat. Sections 62D.04, Subd. (1)(f); 62D.05, Subd. 3; 62D.02, Subd. 4 and Subd. 9; and 62D.13 and MHD 368(b) and 369(a).

(c)(1)(ee) All outpatient ~~medical~~ health services except as exclusions or limitations are hereafter permitted; and

(ff) Procedures for providing preventive ~~medical~~ health services.

Amend MHD 369 (c)(2) as follows:

(2) Permissible Limitations and/or Exclusions. Permissible limitations upon and/or exclusions from those comprehensive health maintenance services required in MHD 369(c)(1) may include:

(aa) Limitations upon and/or exclusions of the provision of corrective appliances and artificial aids;

(bb) Limitations upon and/or exclusions of cosmetic surgery.

(cc) Limitations upon and/or exclusion of dental services;

(dd) Limitations upon and/or exclusions of routine refractions and the fitting and provision of contact lenses and eyeglasses.

(ee) Limitations upon and/or exclusions of ambulance transportation;

(ff) Limitations upon and/or exclusions of hemodialysis or other procedures for treatment of chronic renal failure, of organ transplants,

and/or experimental procedures, to the extent that such procedures, treatments or services are not covered by a policy of insurance, a nonprofit health service plan contract, or other program of coverage.

(gg) Limitations upon and/or exclusions of custodial and/or domeciliary care; and/or

(hh) Limitations upon and/or exclusions of care for injuries incurred while on military duty, to the extent that such care is, in fact, covered or available in another program of coverage.

(ii) Limitations upon and/or exclusions of home health care services.

(jj) ~~Limitations upon and/or exclusions of organ transplants.~~ Limitations upon and/or exclusion of services and other items not prescribed, recommended or approved by a physician that is providing services through the enrollee's health maintenance organization or a provider to whom such physician has referred the enrollee, except in a situation where for reason of medical necessity and not convenience the enrollee is unable to obtain needed health care from the health maintenance organization, such as in emergency or out-of-area situations;

(kk) Limitation upon and/or exclusion of those maternity services which relate to a conception occurring prior to the effective date of coverage of the enrollee.

(ll) ~~(mm)~~(jj) Limitations upon outpatient treatment of mental and emotional conditions and alcohol and other chemical dependency, except ~~for~~ there may be no limitation applied to diagnosis and referral to sources of care.

(mm) ~~(oo)~~(dd) Limitations upon ~~and/or exclusions of~~ the provision of prescription drugs ~~and medicines~~, except during hospitalization;

~~(kk) Limitations upon convalescent care.~~

(nn) Such limitations or exclusions on inpatient hospital care as defined in MHD 367 (e)(2) and required in MHD 369 (c)(1)(cc), as are specifically authorized below. Each health maintenance organization may have:

(1) Limitations upon the number of days of inpatient hospital care, depending on the nature of the coverage, which at least correspond with the following minimum provisions:

(a) For health maintenance contracts issued to a specified group or groups, the coverage may be limited to 365 days of care in a given period of confinement for a condition arising from a single illness or injury, provided that if this coverage is exhausted the benefit must be renewed, or a new period of confinement commenced, upon the occurrence of a separate illness or injury or upon the passage of no more than 90 days without utilization of inpatient hospital care; and provided further, that if an enrollee group rejects in writing such limits of coverage in favor of lesser limits, the coverage may be limited to no less than 180 days, with no more than 90 days between periods of confinement.

(b) For individual health maintenance contracts, the coverage may be limited to 90 days of care in a given period of confinement for a condition arising from a single illness or injury, provided that if this coverage is exhausted the benefit must be renewed or a new period of confinement commenced, upon the occurrence of a separate illness or injury or upon the passage of no more than 90 days without utilization of inpatient hospital care.

(c) For inpatient hospital care out of the service area of the health maintenance organization as defined in MHD 367 (e)(2) and MHD 367 (h) and as required in MHD 369 (c)(1)(bb), the coverage may be limited to 60 days of care in each contract year.

These provisions relate to the aggregate number of days of both acute care and convalescent care, both of which must be rendered to enrollees by the health maintenance organization, but which may be limited, as indicated. These provisions do not relate to custodial or domiciliary care which may be limited or excluded completely pursuant to MHD 369 (c)(2)(gg), nor do these provisions allow limitations or exclusions relative to the spectrum of service during a covered day, which is provided for below.

(2) Limitations upon and/or exclusions of television, telephone and similar convenience or amenity items available in connection with inpatient hospital care but which are not medically necessary as a part of the care of the enrollee; and, limitations upon and/or exclusions of inpatient hospital care for those conditions or under those circumstances where inpatient physician care is also limited or excluded, provided that inpatient physician care and hospital care may not be so limited or excluded beyond a limitation or exclusion otherwise explicitly authorized in MHD 369 (c)(2).

(3) Limitations upon and/or exclusion of private room accommodations.

(4) Limitations upon inpatient treatment for alcohol and other chemical dependency and inpatient treatment for mental and emotional conditions, provided that a health maintenance organization must provide for treatment for alcohol and other chemical dependency in a licensed residential primary treatment program or hospital for up to the greater of 28 days or a number of days equivalent to 20 percent of the other inpatient hospital care coverage; and provided further that a health maintenance organization must provide for inpatient treatment for mental and emotional conditions of at least 30 days in each contract year.

M.D.H. 369(c)(2)(oo) "Those conditions that are subject to underwriting restrictions when the imposition of such restrictions is otherwise proper, provided that underwriting restrictions may only relate to pre-existing, chronic health conditions, and those acute conditions for which an applicant is being treated at the time of the proposed enrollment."

369(c)(4) Subrogation and Coordination of Benefits. The health maintenance organization may require an enrollee to reimburse it for the reasonable value of health maintenance services provided to an enrollee who is injured through the act or omission of a third person or in the course of employment to the extent the enrollee collects damages or workman's compensation benefits for the diagnosis, care and treatment of his injury. The health maintenance organization may be subrogated to the enrollee's rights against the third person or the enrollee's employer to the extent of the reasonable value of the health maintenance services provided including the right to bring suit in the enrollee's name. The health maintenance organization may also provide in its evidences of coverage for coordination of benefits, whereby the health maintenance organization is entitled to determine whether and to what extent an enrollee has indemnity or other coverage for the services or goods provided to the enrollee or benefits paid on behalf of the enrollee by the health maintenance organization, to establish standards for ~~priority of payment~~ priorities among those obligated to provide services or indemnification, to refer to other, prior sources of care, and to enforce the health maintenance organization's right to recover under those standards. Provided, however, no health maintenance organization may recover the value of services rendered from an enrollee beyond ~~the fixed prepayment amount,~~

~~any reasonable copayment and~~ any amount actually received by the enrollee in indemnification for the value of services rendered by the health maintenance organization.

369 (e)(2) An ongoing internal peer review system.; and

369 (e)(3) A defined set of standards and procedures in selecting providers to serve enrollees, and as to the selection of individual providers, the retention of records relative to the number of persons scrutinized in this system and the number of providers screened who were rejected under the described procedures.

369 (e)(4) The Board or each health maintenance organization may also conduct enrollee surveys of the enrollees of each health maintenance organization to ascertain enrollee satisfaction as a part of the overall quality evaluation program.

(f)(2) Gross utilization aggregates, including hospital ~~admissions~~ discharges, surgical hospital discharges, hospital bed days, outpatient visits, laboratory tests and x-rays.

369 (g) Effective date of Operating Requirements. When changes are required in existing evidences of coverage or health maintenance contracts in order to implement the provisions of these rules, such changes shall be implemented upon the renewal date of such documents commencing with the first renewal after 60 days after the effective date of these rules. New contracts or evidences of coverage to be implemented after 60 days after the effective date of these rules must be in compliance with these rules upon implementation.

Amend MHD 370 as follows:

370(c) All enrollees who are contract holders, without regard to any membership or other status in the health maintenance organization corporation, must be afforded the opportunity to participate in the nomination and election of the consumer board members pursuant to Minn. Stat. §62D.06, Subd. 1. All enrollees must be afforded the benefits of the enrollee opinion mechanisms and the complaint system. For the purpose of this rule, a "contract holder" is the member of the covered group through which coverage is acquired, such as the employed person in an employment group, or in the case of an individual contract, is the person named in the contract as the covered person, as distinguished from others who may be covered as dependents of the covered person.

~~371(c)--A description of any major changes in the geographical area or areas served by the health maintenance organization.~~

371~~(a)~~(c) A description of the method and results of the system to evaluate the quality of health services. Such evaluation shall include, but not necessarily be limited to, study of the quality of care for at least one disease condition or age group.

Amend MHD 372 as follows:

MHD 372(a)(3)(aa) A health maintenance organization may terminate enrollees who are covered dependents in a family health maintenance contract upon the attainment by the dependent enrollee of a limiting age as specified in the contract. Provided, however, that no health maintenance contract may specify

a limiting age of less than eighteen years of age. Provided further that if any health maintenance contract provides for the termination of coverage based on the attainment of a specified age it shall also provide in substance that attainment of that age shall not terminate coverage while the child is (a) incapable of self-sustaining employment by reason of mental disability or physical handicap, and (b) chiefly dependent upon the enrollee for support and maintenance, provided proof of incapacity and dependency is furnished by the enrollee within 31 days of attainment of the age, and subsequently as required by the health maintenance organization, but not more frequently than annually after a two year period following attainment of the age.

Add a new section to read:

MHD 372(f) Use of funds. All income of a health maintenance organization, however derived, including refunds, dividends or rebates on its insurance policies or nonprofit health service plan contracts, shall be considered part of its net earnings and subject to the provisions of Minn. Stat. §62D.12, Subd. 9.

Add new Rules, as Follows:

MHD 373 Open Enrollment.

(a) Effective Date. Open enrollment requirements shall be implemented by an existing health plan within a one year period commencing July 1, 1975. Health plans formed after the effective date of the Act, shall implement such requirements within a one year period to commence twenty-four (24) months after beginning operation as a health plan.

(b) Scope.

(1) The requirements of Section 62D.10, Subd. 2 of the Act shall apply to those health plans which offer non-group contracts.

(2) The requirements of Section 62D.10, Subd. 3 of the Act shall apply to those health plans which offer group contracts.

(3) Health plans offering non-group and group contracts shall be subjected to Section 62D.10, Subd. 2, of the Act, with respect to their non-group contracts and to Section 62D.10, Subd. 3, with respect to their group contracts.

MHD 373(d) Notice.

(1) All health plans offering group plans shall provide for reasonable and timely notice of open enrollment provisions to prospective group enrollees or their representatives, including the dates of annual open enrollment and the manner in which to enroll. Such notice shall be given at least fifteen (15) days and not more than forty-five (45) days prior to the commencement of each annual open enrollment period.

(2) All health plans offering individual enrollments shall advertise the dates of their open enrollment and the manner in which to enroll in at least one newspaper of general distribution in the geographical area served by the plan. The advertisement shall run on at least two occasions at least 15 days and at most 45 days before the beginning of the open enrollment period. The advertisement shall be of sufficient size to reasonably apprise readers of the availability of the open enrollment period.

(d) Waiver. The requirements of Section 62D.10 may be waived or the imposition of necessary underwriting restrictions may be authorized upon a written application to the Board stating the grounds for the request. The Board shall determine whether or not compliance with the requirement for open enrollment would:

(1) Contravene the maximum enrollment limitation of 500,000 enrollees imposed by the Act:

(2) Prevent a health plan from competing effectively with other health plans or with commercial health insurers for the enrollment of new members or for the retention of current members;

(3) Result in a health plan's incurring unreasonably high expenses in relation to the value of the benefits or services it provides;

(4) Jeopardize the availability or adequacy of a health plan's working capital and any required surpluses or reserves; or

(5) Endanger the ability of a health plan to meet its current and future obligations to enrollees.

In making this determination the Board of Health shall:

(1) Consider information supplied by a health plan in its application for the waiver or underwriting restrictions;

(2) Be permitted access to all health plan records pertinent to such application;

(3) Consider prevailing practices and standards relating to the financing and delivery of health care service in the community; and

(4) Consider any comments submitted by the Commissioner of Insurance or any interested party.

Add MHD 374 Periodic Filings

(a) Filing Requirements. Any filings that are required by Minn. State. Sections 62D.07, and 62D.08, Subd. 1, and this rule must be filed with the Department of Health no later than ten days prior to the second Thursday of each month, which is the regular meeting date of the Board, unless there is an important and unexpected circumstance which requires filing on a different date. If such circumstance exists, the filing must include a statement describing the circumstances and the urgency of the Board's attention to the filing.

(b) Provider Agreements. The provisions of Minn. Stat. Section 62D.08, Subd. 1 shall apply to any substantive modification in any agreement with providers as described and required for filing in MHD 368(e).

Add MHD 375 Improper Practices.

(a) It shall be an improper practice for a health maintenance organization to advertise or market its operation by making qualitative judgement or statements concerning any health professional who provides services for a health maintenance organization.

Renumber MHD 373 Planning Grants; Applications to be MHD 376.

MHD 377 - 390 - Reserved for future use.

The Department of Health is now codifying all of its rules and regulations, thus necessitating changes in some rule numbers previously assigned. These include the rule numbers for the H.M.O. Rules, which will be changed as follows:

Former Rule No.		New Number
MHD 291	Authority Scope and Purpose	MHD 366
MHD 292	Definitions	MHD 367
MHD 293	Contents of Application	MHD 368
MHD 294	Operating Requirements and Requirements for Issuance of a Certificate of Authority	MHD 369
MHD 295	Governing Body; Consumer Members; Enrollee Participation; Complaint System	MHD 370
MHD 296	Annual Reports	MHD 371
MHD 297	Other Provisions	MHD 372
MHD 298	Planning Grants; Applications	MHD 373
MHD 299-305	Reserved for Future Use	MHD 374-390

APPROVED AS TO FORM AND LEGALITY
October 18 19 74
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED — 4:00 P.M.
OCT 18 1974
Arlen I. Erdahl
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
OCT 18 1974 4:10 pm
BY Eda Staudenmaier
AUTH. SIGNATURE EJ

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
STATE BOARD OF HEALTH

In the Matter of Proposed
Amendments Relating to the
Certification and Regulation of
Health Maintenance Organizations

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (1971) in the above-entitled matter, in the Board Room, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota, on Wednesday, July 10, 1974, commencing at 9:30 A.M. and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed amendments captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

A copy of the proposed amendments is attached and made a part hereof.

Copies of the proposed amendments are now available and may be obtained by writing to John E. Diehl, H.M.O. Unit, Minnesota Department of Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

A copy of the procedural rules for the hearing is attached and made a part hereof.

Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand and may be presented either orally or in writing at the public hearing or by mailing a statement to the Secretary and Executive Officer of the Board at the Department of Health Building, address as above. If the person submitting a statement cannot be present to read his statement at the time of the hearing, the statement will be entered into the record. For those wishing to submit written statements or

exhibits, it is requested that at least three (3) copies of such statement, exhibit or summary be furnished at the hearing. The record will remain open for receipt of briefs or other written material relative to the proposed amendments for twenty (20) days subsequent to the public hearing.

It is suggested that to save time and avoid duplication, those organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Dated: June 6, 1974.

STATE OF MINNESOTA
BOARD OF HEALTH

s/ Warren R. Lawson, M.D.
WARREN R. LAWSON, M.D.
Secretary and Executive Officer

MINNESOTA STATE BOARD OF HEALTH

PROCEDURAL RULES FOR HEARING

The purpose of the hearing is to allow interested parties to express their views and present facts bearing upon the proposed regulations. So as to provide for an orderly presentation of evidence, the following rules will be in effect during the hearing specified in the attached Notice of Hearing:

1. Anyone wishing to be heard should indicate by signing the speaking sheet, listing his name, address, and the group which he represents. The speaking sheet will be available at the main entrance to the hearing room. It is requested that each group select one speaker only to present its views.

2. The first time the witness makes a statement he should spell his name and identify the group he is representing. Prior to making any subsequent statements he should state his name and the group which he represents. He may be sworn upon his request but it is not required. If he elects not to be sworn, that may be considered in determining the weight to be given to his testimony.

3. By giving testimony, a witness, including one who may also be a member of the panel, subjects himself to questioning by the panel. However, he is subject to cross-examination by non-members of the panel only if he affirmatively consents to being so examined. A refusal to be cross-examined may be considered in determining the weight to be given to his testimony.

4. All parties interested in introducing any written matter may do so by having it marked as an exhibit and then introduced for the record. Unsworn written matter may be received, but the fact that it is unsworn may be considered in determining the weight to be given it.

PROPOSED H.M.O. REGULATIONS

Amendments to Minn. Reg. MHD 291-305

Note: The existing rules may be obtained from:

Documents Section
140 Centennial Office Building
St. Paul, Minnesota
296-2974

The State will charge $3.85 plus tax for each copy of the rules.

The numbering of the rules will be changed, according to the table at the end of the proposed amendments. The proposed amendments follow, adopting the new numbering system.

Amend MHD 367 as follows:

367(e)(4) "Outpatient ~~medical~~ health services" means ambulatory care including health supervision, preventive, diagnostic and therapeutic services, including diagnostic radiologic, treatment of alcohol and other chemical dependency, treatment of mental and emotional conditions, provision of drugs and medicine, and other supportive treatment.

(5) "Preventive ~~Medical~~ Health services" means health education, health supervision including evaluation and follow-up, immunization and early disease detection.

(k) "Enrollee copayment provisions" means those contract clauses requiring charges to enrollees, in addition to fixed, prepaid sums, to supplement the cost of providing covered comprehensive health maintenace services; "enrollee copayment provisions" also means the difference between an indemnity benefit and the charge of a provider for health services rendered.

(m) "Open Enrollment" means the acceptance for coverage by health plans of group enrollees without regard to underwriting restrictions, and coverage of individual or non-group enrollees with regard only to those underwriting restrictions permissible under Minn. Stat. §62D.10, Subd. 2.

(n) "Underwriting restrictions" means those internal predetermined standards within a health maintenance organization which specify and exclude from coverage certain health conditions or persons with certain health conditions which, if such persons or conditions were enrolled or covered, would obligate the health maintenance organization to provide a greater amount, kind or intensity of service than that required by the general population or that contemplated in the process of setting the prepayment amount.

(o) "Period of confinement" means a period of time specified in a health maintenance contract relating to the amount of days of inpatient hospital care and defining a period during which an enrollee may not receive any inpatient hospital care in order to become entitled to a renewed period of hospital coverage. This term means the same as "spell of illness" and similar terms as they may be used in provisions to limit hospital care.

Amend MHD 368 as follows:

368(a)(2)(cc) A description of any policy or practice of a provider/other person to continue paying a director/principal officer his normal salary or other compensation for time devoted by the director/principal officer to the affairs of the health maintenance organization that would have otherwise been devoted to the affairs of the provider/other person, a description of any policies or practices whereby the expenses incurred by a director/principal officer in attending meetings or otherwise attending to the affairs of the health maintenance organization are paid or reimbursed by the provider/other person, and a listing of the dollar amounts or value of each item of compensation, payment or reimbursement for each director/principal officer and each provider/other person.

(b) Insurance. Each application for a certificate of authority shall attach pertinent documents, including copies of insurance contracts, in verification of compliance with Sections 62D.04, Subd. 1(f); 62D.05, Subd.12, Subd. 4 and Subd. 9, and 62D.13 of the Act with respect to assumption of risks and insurance against risks.

(d)(2) Gross utilization aggregates, including hospital ~~admissions~~ discharges, surgical hospital admissions, hospital bed days, outpatient visits, laboratory tests, and x-rays;

(e) Provider agreements. The application shall include copies of all types of agreements with providers by virtue of which enrollees will receive health care from the providers, and a description of any other relationships with providers who might attend enrollees together with a statement describing the manner in which these other relationships assure availability and accessibility of health care.

~~(e)~~ (f) Other Requirements. Each application must also include documentation and/or evidence of compliance with all of the requirements of the Act and these regulations, and the Board may require such other information in applications for certificates of authority as it feels is necessary to make a determination on the application.

Amend MHD 369 as follows:

(b)(5) A determination of financial responsibility shall include consideration of a health maintenance organization's insurance coverage of its own risks and the risks it may bear in agreeing to provide services to enrollees relative to the organization's own financial reserves and surplus. These considerations must give full force and effect to Minn. Stat. Sections 62D.04, Subd. (1)(f); 62D.05, Subd. 3; 62D.02, Subd. 4 and Subd. 9; and 62D.13 and MHD 368(b) and 369(a).

(c)(1)(~~ee~~) All outpatient ~~medical~~ health services except as exclusions or limitations are hereafter permitted; ~~and~~

(ff) Procedures for providing preventive ~~medical~~ health services.

Amend MHD 369(c)(2) as follows:

(2) Permissible Limitations and/or Exclusions. Permissible limitations upon and/or exclusions from those comprehensive health maintenance services required in MHD 294(d)(1) may include:

(aa) Limitations upon and/or exclusions of the provision of corrective appliances and artificial aids;

(bb) Limitations upon and/or exclusions of comsmetic surgery.

(cc) Limitations upon and/or exclusion of dental services;

(dd) Limitations upon and/or exclusions of diagnosis and treatment for impaired vision.

(ee) Limitations upon and/or exclusions of ambulance transportation;

(ff) Limitations upon and/or exclusions of hemodialysis or other procedures for treatment of chronic renal failure, of organ transplants, and/or experimental procedures, to the extent that such procedures, treatments or services are not covered by a policy of insurance, a nonprofit health service plan contract, or other program of coverage.

(gg) Limitations upon and/or exclusions of custodial and/or domesciliary care; and/or

(hh) ~~Limitations upon and/or exclusions of care for injuries incurred while on military duty.~~ Limitations upon and/or exclusions of home health care services.

(ii) ~~Limitations upon and/or exclusions or organ transplants.~~ Limitations upon and/or exclusion of services and other items not prescribed, recommended or approved by a physician that is providing services through the enrollee's health maintenance organization or a provider to whom such physician has referred the enrollee, except in a situation where for reason of medical necessity and not convenience the enrollee is unable to obtain needed health care from the health maintenance organization, such as in emergency or out-of-area situations;

(jj) Limitation upon and/or exclusion of those maternity services which relate to a conception occurring prior to the effective date of coverage of the enrollee.

(kk) Limitations upon and/or exclusion of television, telephone and similar convenience or amenity items available in connection with inpatient hospital care, but which are not medically necessary as a part of the care of the enrollee.

(ll) Limitations upon inpatient hospital care, provided that the limitations may relate only to days of service and the provisions of MHD 369(c)(2)(kk), not to the spectrum of services covered during a covered day, and provided further that care may not be limited to less than 90 days per period of confinement and there may be no more than 60 days between confinements to determine a "period of confinement."

(mm) ~~(jj)~~ Limitations upon outpatient treatment of mental and emotional conditions and alcohol and other chemical dependency, except ~~for~~ there may be no limitation applied to diagnosis and referral to sources of care.

(nn) Limitations upon inpatient treatment for alcohol and other chemical dependency, provided that a health maintenance organization must provide for treatment in a licensed residential primary treatment program or hospital for up to the greater of 28 days or a number of days equivalent to 20 percent of the other inpatient hospital care coverage.

(oo) ~~(dd)~~ Limitations upon ~~and/or exclusions of~~ the provision of drugs and medicines, except during hospitalization;

(pp) ~~(kk)~~ Limitations upon convalescent care.

(qq) Those conditions that are subject to underwriting restrictions when the imposition of such restrictions is otherwise proper, provided that underwriting restrictions may only be imposed on the initial enrollment in an individual health maintenance contract, as distinguished from the renewal of an individual contract and all group enrollees, and may only relate to preexisting, chronic health conditions.

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369(e)(2) An ongoing internal peer review system; and

369(e)(3) A defined set of standards and procedures in selecting providers to serve enrollees and the retention of records relative to the number of persons scrutinized in this system and the number of persons rejected under the described procedures.

369(e)(4) The Board or each health maintenance organization may also conduct enrollee surveys of the enrollees of each health maintenance organization to ascertain enrollee satisfaction as a part of the overall quality evaluation program.

(f)(2) Gross utilization aggregates, including hospital ~~admissions~~ **discharges, surgical hospital admissions,** hospital bed days, outpatient visits, laboratory tests and x-rays.

Amend MHD 370 as follows:

370(c) All adult enrollees, without regard to any membership or other status in the health maintenance organization corporation, must be afforded the opportunity to participate in the nomination and election of the consumer board members pursuant to Minn. Stat. §62D.06, Subd. 1, the enrollee opinion mechanisms and the complaint system, and no health maintenance organization may condition such opportunity upon the payment of a fee or deposit other than the periodic capitation amount. Provided, however, this rule shall not be construed to prohibit a health maintenance organization from requiring enrollees to pay a reasonable increment as a contribution to working capital, reserves and surplus so long as this requirement is applied to each and every enrollee or family of enrollees enrolled in the health maintenance organization on an equal basis. This rule shall take effect August 1, 1974.

Amend MHD 371 as follows:

~~371(e)--A-description-of-any-major-changes-in-the-geographical-area-or-areas served-by-the-health-maintenance-organization.~~

371(~~d~~)(c) A description of the method and results of the system to evaluate the quality of health services. Such evaluation shall include, but not necessarily be limited to, study of the quality of care for at least one disease condition or age group.

Amend MHD 372 as follows:

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Add a new section to read:

MHD 372(f) Use of funds. All income of a health maintenance organization, however derived, including refunds, dividends or rebates on its insurance policies or nonprofit health service plan contracts, shall be considered part of its net earnings and subject to the provisions of Minn. Stat. §62D.12, Subd. 9.

Add new Rules, as Follows:

MHD 373 Open Enrollment.

(a) Effective Date. Open enrollment requirements shall be implemented by an existing health plan within a one year period commencing July 1, 1975. Health

plans formed after the effective date of the Act, shall implement such requirements within a one year period to commence twenty-four (24) months after beginning operation as a health plan.

(b) Scope.

(1) The requirements of Section 62D.10, Subd. 2 of the Act shall apply to those health plans which offer non-group contracts.

(2) The requirements of Section 62D.10, Subd. 3 of the Act shall apply to those health plans which offer group contracts.

(3) Health plans offering non-group and group contracts shall be subjected to Section 62D.10, Subd. 2, of the Act, with respect to their non-group contracts and to Section 62D.10, Subd. 3, with respect to their group contracts.

MHD 373(d) Notice.

(1) All health plans offering group plans shall provide for reasonable and timely notice of open enrollment provisions to prospective group enrollees or their representatives, including the dates of annual open enrollment and the manner in which to enroll. Such notice shall be given at least fifteen (15) days and not more than forty-five (45) days prior to the commencement of each annual open enrollment period.

(2) All health plans offering individual enrollments shall advertise the dates of their open enrollment and the manner in which to enroll in at least one newspaper in the geographical area served by the plan. The advertisement shall run on at least two occasions at least 15 days and at most 45 days before the beginning of the open enrollment period. The advertisement shall be of sufficient size to reasonably apprise readers of the availability of the open enrollment period.

(d) Waiver. The requirements of Section 62D.10 may be waived or the imposition of necessary underwriting restrictions may be authorized upon a written applica-

tion to the Board stating the grounds for the request. The Board shall determine whether or not compliance with the requirement for open enrollment:

(1) Contravene the maximum enrollment limitation of 500,000 enrollees imposed by the Act;

(2) Prevent a health plan from competing effectively with other health plans or with commercial health insurers for the enrollment of new members or for the retention of current members;

(3) Result in a health plan's incurring unreasonably high expenses in relation to the value of the benefits or services it provides;

(4) Jeopardize the availability or adequacy of a health plan's working capital and any required surpluses or reserves;

(5) Endanger the ability of a health plan to meet its current and future obligations to enrollees.

In making this determination the Department of Health shall:

(1) Consider information supplied by a health plan in its application for the waiver or underwriting restrictions;

(2) Be permitted access to all health plan records pertinent to such application;

(3) Consider prevailing practices and standards relating to the financing and delivery of health care service in the community; and

(4) Consider any comments submitted by the State Board of Health or any interested party.

Add MHD 374 Periodic Filings

(a) Filing Requirements. Any filings that are required by Minn. Stat. Sections 62D.07, and 62D.08, Subd. 1, and this rule must be filed with the Department of Health no later than ten days prior to the second Thursday of each month, which

The Department of Health is now codifying all of its rules and regulations, thus necessitating changes in some rule numbers previously assigned. These include the rule numbers for the H.M.O. Rules, which will be changed as follows:

Former Rule No.		New Number
MHD 291	Authority Scope and Purpose	MHD 366
MHD 292	Definitions	MHD 367
MHD 293	Contents of Application	MHD 368
MHD 294	Operating Requirements and Requirements for Issuance of a Certificate of Authority	MHD 369
MHD 295	Governing Body; Consumer Members; Enrollee Participation; Complaint System	MHD 370
MHD 296	Annual Reports	MHD 371
MHD 297	Other Provisions	MHD 372
MHD 298	Planning Grants; Applications	MHD 373
MHD 299-305	Reserved for Future Use	MHD 374-390

ADMIN. 1000
3

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Mike Miller
Special Assistant Attorney General
Department of Administration

DATE: Sept. 24, 1974

FROM : Jack Breviu Jack
Special Assistant Attorney General
Department of Health

SUBJECT: Health Maintenance Organization Regulations

The H.M.O. regulations which were recently adopted by the Board of Health contain one regulation, MHD 370 (c), which arguably is beyond the Board's legal authority to adopt. The following represents the legal arguments in support of the regulation.

MHD 370 (c) states as follows:

> All enrollees who are contract holders, without regard to any membership or other status in the health maintenance organization corporation, must be afforded the opportunity to participate in the nomination and election of consumer board members pursuant to Minn. Stat. § 62D.06 subd. 1. All enrollees must be afforded the benefits of the enrollee opinion mechanisms and the complaint system. For the purpose of this rule, a "contract holder" is the member of the covered group through which coverage is acquired, such as the employed person in an employment group, or in the case of an individual contract, is the person named in the contract as the covered person, as distinguished from others who may be covered as dependents of the covered person.

This regulation is based upon Minn. Laws 1974, ch. 284 § 10 which reads in relevant part as follows:

> The governing body of any health maintenance organization may include enrollees, providers, or other individuals; provided, however, that after a health maintenance organization has been authorized under sections 62D.01 to 62D.29 for one year, at least 40 percent of the governing body shall be composed of consumers elected by the enrollees from among the enrollees.

Under the terms of the statute, therefore, the consumer members of the Board of Directors must be elected by the enrollees. The argument can be made that all enrollees must be eligible voters and that the regulation improperly limits the electorate to contract holders. This argument, I believe, must fail in view of the opinion rendered by Curtis Forslund in April, 1974. That opinion stated that it was improper to assume that consumer

members of the governing body must be elected by all the enrollees. Minn. Stat. § 317.20 subd. 7 (4) (1971) allows a nonprofit corporation (all H.M.O.s are required to be nonprofit corporations) to prescribe the manner in which the board of directors is elected in the articles of incorporation or the bylaws. Minn. Stat. § 317.25 subd. 1 (4) (1971) states that the articles or bylaws may provide for classes of members without voting rights. Thus, it was concluded that the consumer board members must be elected from among the enrollees, although not necessarily from among all the enrollees.

Forslund's opinion was based upon Minn. Stat. § 62D.06 as it existed in April, 1974. Effective August 1, 1974, a phrase was added to the statute requiring the consumer board members to be elected "by the enrollees from among the enrollees." Since "enrollee" is defined by Minn. Stat. § 62D.02 subd. 6 (1973 Supp.) as including every person who is covered by a H.M.O. contract, arguably all such persons now have a right to participate in the election. I believe that it is a reasonable interpretation of the statute to say that the amendment only imposes the additional requirement that all electors must be enrollees and not that all enrollees must be electors.

Thus, if it is clear that the Board may not require that all enrollees be eligible to participate in the election process, the remaining question relates to how far the Board can go in requiring that certain enrollees participate in elections.

The Health Maintenance Act clearly contemplates that consumers of health care will have a significant voice in the conduct of an H.M.O.'s affairs. Accordingly, it is required that at least 40% of the governing body of an H.M.O. consist of consumers. While the Board of Health cannot require that all enrollees participate in the election process, the Board can require that H.M.O.s establish a reasonable election procedure which will ensure that consumer-enrollees have a voice in the selection of consumer board members. It should be noted that an enrollee in an H.M.O. is either a "consumer" as defined by Minn. Stat. § 62D.02 (1973 Supp.) or a "provider" as defined by the same statute. If an H.M.O. has absolute discretion in determining how consumer members of its governing body are elected, then the consumers could conceivably be elected only by provider-enrollees. This would fulfill the express requirement of the Act in having consumer board members elected "by the enrollees," yet it would subvert the clear intent of the Act by denying consumers the opportunity to have any say in the selection of their representatives on the governing body. While the Board of Health cannot interfere with the H.M.O.'s right as a nonprofit corporation to have voting and non-voting members, it can require the H.M.O. to provide voting membership

to a class of enrollees which is sufficiently large to carry out the intent of section 62D.06 by having consumer participation in the election of consumer board members. By requiring that contract holders be allowed to participate in the election of the consumer members of the governing body, the Board has chosen a group which is sufficiently large to ensure an electorate which contains a representative body of consumers yet is sufficiently small to enable an H.M.O. to easily administer the election. It thus appears that the Board has adopted a regulation which constitutes a reasonable interpretation of Minn. Stat. § 62D.06 subd. 1.

JAB:cs

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
STATE BOARD OF HEALTH

In the Matter of Proposed
Amendments Relating to the
Certification and Regulation of
Health Maintenance Organizations

ORDER FOR HEARING

To effectively implement Minn. Stat. § 62D.01 et seq., the Minnesota State Board of Health deems it necessary to consider adoption of the proposed amendments captioned above pursuant to the authority vested in it by the above-referenced statute.

NOW, THEREFORE, IT IS ORDERED this 6 day of June, 1974, that a public hearing on the proposed amendments captioned above be held in the Board Room, Minnesota Health Department Building, 717 Delaware Street S.E., Minneapolis, Minnesota on July 10, 1974, commencing at 9:30 A.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
BOARD OF HEALTH

WARREN R. LAWSON, M.D.
Secretary and Executive Officer

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
STATE BOARD OF HEALTH

In the Matter of Proposed
Amendments Relating to the
Certification and Regulation of
Health Maintenance Organizations

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (1971) in the above-entitled matter, in the Board Room, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota, on Wednesday, July 10, 1974, commencing at 9:30 A.M. and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed amendments captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

A copy of the proposed amendments is attached and made a part hereof.

Copies of the proposed amendments are now available and may be obtained by writing to John E. Diehl, H.M.O. Unit, Minnesota Department of Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

A copy of the procedural rules for the hearing is attached and made a part hereof.

Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand and may be presented either orally or in writing at the public hearing or by mailing a statement to the Secretary and Executive Officer of the Board at the Department of Health Building, address as above. If the person submitting a statement cannot be present to read his statement at the time of the hearing, the statement will be entered into the record. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies of such statement, exhibit or summary be furnished at the hearing. The record will remain open for receipt of briefs or other written material relative to the proposed amendments for twenty (20) days subsequent to the public hearing.

It is suggested that to save time and avoid duplication, those organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Dated: June 6, 1974.

STATE OF MINNESOTA
BOARD OF HEALTH

Warren R. Lawson

WARREN R. LAWSON, M.D.
Secretary and Executive Officer

MINNESOTA STATE BOARD OF HEALTH

PROCEDURAL RULES FOR HEARING

The purpose of the hearing is to allow interested parties to express their views and present facts bearing upon the proposed regulations. So as to provide for an orderly presentation of evidence, the following rules will be in effect during the hearing specified in the attached Notice of Hearing:

1. Anyone wishing to be heard should indicate by signing the speaking sheet, listing his name, address, and the group which he represents. The speaking sheet will be available at the main entrance to the hearing room. It is requested that each group select one speaker only to present its views.

2. The first time the witness makes a statement he should spell his name and identify the group he is representing. Prior to making any subsequent statements he should state his name and the group which he represents. He may be sworn upon his request but it is not required. If he elects not to be sworn, that may be considered in determining the weight to be given to his testimony.

3. By giving testimony, a witness, including one who may also be a member of the panel, subjects himself to questioning by the panel. However, he is subject to cross-examination by non-members of the panel only if he affirmatively consents to being so examined. A refusal to be cross-examined may be considered in determining the weight to be given to his testimony.

4. All parties interested in introducing any written matter may do so by having it marked as an exhibit and then introduced for the record. Unsworn written matter may be received, but the fact that it is unsworn may be considered in determining the weight to be given it.

PROPOSED H.M.O. REGULATIONS

Amendments to Minn. Reg. MHD 291-305

Note: The existing rules may be obtained from:

Documents Section
140 Centennial Office Building
St. Paul, Minnesota
296-2974

The State will charge $3.85 plus tax for each copy of the rules.

The numbering of the rules will be changed, according to the table at the end of the proposed amendments. The proposed amendments follow, adopting the new numbering system.

Amend MHD 367 as follows:

367(e)(4) "Outpatient ~~medical~~ health services" means ambulatory care including health supervision, preventive, diagnostic and therapeutic services, including diagnostic radiologic, treatment of alcohol and other chemical dependency, treatment of mental and emotional conditions, provision of drugs and medicine, and other supportive treatment.

(5) "Preventive ~~Medical~~ Health services" means health education, health supervision including evaluation and follow-up, immunization and early disease detection.

(k) "Enrollee copayment provisions" means those contract clauses requiring charges to enrollees, in addition to fixed, prepaid sums, to supplement the cost of providing covered comprehensive health maintenace services; "enrollee copayment provisions" also means the difference between an indemnity benefit and the charge of a provider for health services rendered.

(m) "Open Enrollment" means the acceptance for coverage by health plans of group enrollees without regard to underwriting restrictions, and coverage of individual or non-group enrollees with regard only to those underwriting restrictions permissible under Minn. Stat. §62D.10, Subd. 2.

(n) "Underwriting restrictions" means those internal predetermined standards within a health maintenance organization which specify and exclude from coverage certain health conditions or persons with certain health conditions which, if such persons or conditions were enrolled or covered, would obligate the health maintenance organization to provide a greater amount, kind or intensity of service than that required by the general population or that contemplated in the process of setting the prepayment amount.

(o) "Period of confinement" means a period of time specified in a health maintenance contract relating to the amount of days of inpatient hospital care and defining a period during which an enrollee may not receive any inpatient hospital care in order to become entitled to a renewed period of hospital coverage. This term means the same as "spell of illness" and similar terms as they may be used in provisions to limit hospital care.

Amend MHD 368 as follows:

368(a)(2)(cc) A description of any policy or practice of a provider/other person to continue paying a director/principal officer his normal salary or other compensation for time devoted by the director/principal officer to the affairs of the health maintenance organization that would have otherwise been devoted to the affairs of the provider/other person, a description of any policies or practices whereby the expenses incurred by a director/principal officer in attending meetings or otherwise attending to the affairs of the health maintenance organization are paid or reimbursed by the provider/other person, and a listing of the dollar amounts or value of each item of compensation, payment or reimbursement for each director/principal officer and each provider/other person.

(b) Insurance. Each application for a certificate of authority shall attach pertinent documents, including copies of insurance contracts, in verification of compliance with Sections 62D.04, Subd. 1(f); 62D.05, Subd.12, Subd. 4 and Subd. 9, and 62D.13 of the Act with respect to assumption of risks and insurance against risks.

(d)(2) Gro[redacted]utilization aggregates, includ[redacted] hospital ~~admissions~~ discharges, surgical hospital admissions, hospital bed days, outpatient visits, laboratory tests, and x-rays;

(e) Provider agreements. The application shall include copies of all types of agreements with providers by virtue of which enrollees will receive health care from the providers, and a description of any other relationships with providers who might attend enrollees together with a statement describing the manner in which these other relationships assure availability and accessibility of health care.

~~(e)~~ (f) Other Requirements. Each application must also include documentation and/or evidence of compliance with all of the requirements of the Act and these regulations, and the Board may require such other information in applications for certificates of authority as it feels is necessary to make a determination on the application.

Amend MHD 369 as follows:

(b)(5) A determination of financial responsibility shall include consideration of a health maintenance organization's insurance coverage of its own risks and the risks it may bear in agreeing to provide services to enrollees relative to the organization's own financial reserves and surplus. These considerations must give full force and effect to Minn. Stat. Sections 62D.04, Subd. (1)(f); 62D.05, Subd. 3; 62D.02, Subd. 4 and Subd. 9; and 62D.13 and MHD 368(b) and 369(a).

(c)(1)(~~ee~~) All outpatient ~~medical~~ health services except as exclusions or limitations are hereafter permitted; and

(ff) Procedures for providing preventive ~~medical~~ health services.

Amend MHD 369(c)(2) as follows:

(2) Permissible Limitations and/or Exclusions. Permissible limitations upon and/or exclusions from those comprehensive health maintenance services required in MHD 294(d)(1) may include:

(aa) Limitations upon and/or exclusions of the provision of corrective appliances and artificial aids;

(bb) Limitations upon and/or exclusions of comsmetic surgery.

(cc) Limitations upon and/or exclusion of dental services;

(dd) Limitations upon and/or exclusions of diagnosis and treatment for impaired vision.

(ee) Limitations upon and/or exclusions of ambulance transportation;

(ff) Limitations upon and/or exclusions of hemodialysis or other procedures for treatment of chronic renal failure, of organ transplants, and/or experimental procedures, to the extent that such procedures, treatments or services are not covered by a policy of insurance, a nonprofit health service plan contract, or other program of coverage.

(gg) Limitations upon and/or exclusions of custodial and/or domesciliary care; and/or

(hh) ~~Limitations upon and/or exclusions of care for injuries incurred while on military duty.~~ Limitations upon and/or exclusions of home health care services.

(ii) ~~Limitations upon and/or exclusions or organ transplants.~~ Limitations upon and/or exclusion of services and other items not prescribed, recommended or approved by a physician that is providing services through the enrollee's health maintenance organization or a provider to whom such physician has referred the enrollee, except in a situation where for reason of medical necessity and not convenience the enrollee is unable to obtain needed health care from the health maintenance organization, such as in emergency or out-of-area situations;

(jj) Limitation upon and/or exclusion of those maternity services which relate to a conception occurring prior to the effective date of coverage of the enrollee.

(kk) Limitations upon and/or exclusion of television, telephone and similar convenience or amenity items available in connection with inpatient hospital care, but which are not medically necessary as a part of the care of the enrollee.

(ll) Limitations upon inpatient hospital care, provided that the limitations may relate only to days of service and the provisions of MHD 369(c)(2)(kk), not to the spectrum of services covered during a covered day, and provided further that care may not be limited to less than 90 days per period of confinement and there may be no more than 60 days between confinements to determine a "period of confinement."

~~(mm) (jj)~~ Limitations upon outpatient treatment of mental and emotional conditions and alcohol and other chemical dependency, except ~~for~~ there may be no limitation applied to diagnosis and referral to sources of care.

(nn) Limitations upon inpatient treatment for alcohol and other chemical dependency, provided that a health maintenance organization must provide for treatment in a licensed residential primary treatment program or hospital for up to the greater of 28 days or a number of days equivalent to 20 percent of the other inpatient hospital care coverage.

~~(oo) (dd)~~ Limitations upon ~~and/or exclusions of~~ the provision of drugs and medicines, except during hospitalization;

~~(pp) (kk)~~ Limitations upon convalescent care.

(qq) Those conditions that are subject to underwriting restrictions when the imposition of such restrictions is otherwise proper, provided that underwriting restrictions may only be imposed on the initial enrollment in an individual health maintenance contract, as distinguished from the renewal of an individual contract and all group enrollees, and may only relate to preexisting, chronic health conditions.

369(c)(4) Subrogation and Coordination of Benefits. The health maintenance organization may require an enrollee to reimburse it for the reasonable value of health maintenance services provided to an enrollee who is injured through the act or omission of a third person or in the course of employment to the extent the enrollee collects damages or workman's compensation benefits for the diagnosis, care and treatment of his injury. The health maintenance organization may be subrogated to the enrollee's rights against the third person or the enrollee's employer to the extent of the reasonable value of the health maintenance services provided including the right to bring suit in the enrollee's name. The health maintenance organization may also provide in its evidences of coverage for coordination of benefits, whereby the health maintenance organization is entitled to determine whether and to what extent an enrollee has indemnity or other coverage for the services or goods provided to the enrollee or benefits paid on behalf of the enrollee by the health maintenance organization, to establish standards for ~~priority-of-payment~~ priorities among those obligated to provide services or indemnification, to refer to other, prior sources of care, and to enforce the health maintenance organization's right to recover under those standards. Provided, however, no health maintenance organization may recover the value of services rendered from an enrollee beyond ~~the-fixed-pre-payment-amount,-any-reasonable-copayment-and~~ any amount actually received by the enrollee in indemnification for the value of services rendered by the health maintenance organization.

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369(e)(3) A defined set of standards and procedures in selecting providers to serve enrollees and the retention of records relative to the number of persons scrutinized in this system and the number of persons rejected under the described procedures.

369(e)(4) The Board or each health maintenance organization may also conduct enrollee surveys of the enrollees of each health maintenance organization to ascertain enrollee satisfaction as a part of the overall quality evaluation program.

(f)(2) Gross utilization aggregates, including hospital admissions discharges, surgical hospital admissions, hospital bed days, outpatient visits, laboratory tests and x-rays.

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~~*371(e)--A description of any major changes in the geographical area or areas served by the health maintenance organization.*~~

371(d)(c) A description of the method and results of the system to evaluate the quality of health services. Such evaluation shall include, but not necessarily be limited to, study of the quality of care for at least one disease condition or age group.

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MHD 372(a)(3)(aa) A health maintenance organization may terminate enrollees who are covered dependents in a family health maintenance contract upon the attainment by the dependent enrollee of a limiting age as specified in the contract. Provided, however, that no health maintenance contract may specify a limiting age of less than eighteen years of age. Provided further that if any health maintenance contract provides for the termination of coverage based on the attainment of a specified age shall also provide in substance that attainment of that age shall not terminate coverage while the child is (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap, and sustaining employment by reason of mental retardation or physical handicap, and (b) chiefly dependent upon the enrollee for support and maintenance, provided proof of incapacity and dependency is furnished by the enrollee within 31 days of attainment of the age, and subsequently as required by the health maintenance organization, but not more frequently than annually after a two year period following attainment of the age.

Add a new section to read:

MHD 372(f) Use of funds. All income of a health maintenance organization, however derived, including refunds, dividends or rebates on its insurance policies or nonprofit health service plan contracts, shall be considered part of its net earnings and subject to the provisions of Minn. Stat. §62D.12, Subd. 9.

Add new Rules, as Follows:

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(a) Effective Date. Open enrollment requirements shall be implemented by an existing health plan within a one year period commencing July 1, 1975. Health

plans formed after the effective date of the Act, shall implement such requirements within a one year period to commence twenty-four (24) months after beginning operation as a health plan.

(b) Scope.

(1) The requirements of Section 62D.10, Subd. 2 of the Act shall apply to those health plans which offer non-group contracts.

(2) The requirements of Section 62D.10, Subd. 3 of the Act shall apply to those health plans which offer group contracts.

(3) Health plans offering non-group and group contracts shall be subjected to Section 62D.10, Subd. 2, of the Act, with respect to their non-group contracts and to Section 62D.10, Subd. 3, with respect to their group contracts.

MHD 373(d) Notice.

(1) All health plans offering group plans shall provide for reasonable and timely notice of open enrollment provisions to prospective group enrollees or their representatives, including the dates of annual open enrollment and the manner in which to enroll. Such notice shall be given at least fifteen (15) days and not more than forty-five (45) days prior to the commencement of each annual open enrollment period.

(2) All health plans offering individual enrollments shall advertise the dates of their open enrollment and the manner in which to enroll in at least one newspaper in the geographical area served by the plan. The advertisement shall run on at least two occasions at least 15 days and at most 45 days before the beginning of the open enrollment period. The advertisement shall be of sufficient size to reasonably apprise readers of the availability of the open enrollment period.

(d) Waiver. The requirements of Section 62D.10 may be waived or the imposition of necessary underwriting restrictions may be authorized upon a written applica-

tion to the Board stating the grounds for the request. The Board shall determine whether or not compliance with the requirement for open enrollment:

(1) Contravene the maximum enrollment limitation of 500,000 enrollees imposed by the Act;

(2) Prevent a health plan from competing effectively with other health plans or with commercial health insurers for the enrollment of new members or for the retention of current members;

(3) Result in a health plan's incurring unreasonably high expenses in relation to the value of the benefits or services it provides;

(4) Jeopardize the availability or adequacy of a health plan's working capital and any required surpluses or reserves;

(5) Endanger the ability of a health plan to meet its current and future obligations to enrollees.

In making this determination the Department of Health shall:

(1) Consider information supplied by a health plan in its application for the waiver or underwriting restrictions;

(2) Be permitted access to all health plan records pertinent to such application;

(3) Consider prevailing practices and standards relating to the financing and delivery of health care service in the community; and

(4) Consider any comments submitted by the State Board of Health or any interested party.

Add MHD 374 Periodic Filings

(a) Filing Requirements. Any filings that are required by Minn. Stat. Sections 62D.07, and 62D.08, Subd. 1, and this rule must be filed with the Department of Health no later than ten days prior to the second Thursday of each month, which

is the regular meeting date of the Board, unless there is an important and unexpected circumstance which requires filing on a different date. If such circumstance exists, the filing must include a statement describing the circumstances and the urgency of the Board's attention to the filing.

(b) Provider Agreements. The provisions of Minn. Stat. Section 62D.08, Subd. 1 shall apply to any substantive modification in any agreement with providers as described and required for filing in MHD 368(e).

Add MHD 375 Improper Practices.

(a) It shall be an improper practice for a health maintenance organization to advertise or market its operation by going beyond mere identification of the providers who will serve enrollees, or by making qualitative judgment concerning any health professional who provides services for a health maintenance organization.

Renumber MHD 373 Planning Grants; Applications to be MHD 376.

MHD 377 - 390 - Reserved for future use.

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed
Amendments Relating to the
Certification and Regulation
of Health Maintenance Organizations

CERTIFICATE

I hereby certify that the 364 general labels and 1 list for the Minnesota State Health Department, all of which are attached and made a part hereof, constitute the complete lists of persons, associations, and other interested groups who as of 9:40 O'clock A.M. this 7 day of June, 1974, have requested, pursuant to Minn. Stat. § 15.0412 subd. 4 (1971), that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed amendments on the subject captioned above.

SECRETARY OF STATE

ARLEN I. ERDAHL

By Virginia Daniels

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of the Proposed Amendments Relating to the Certification and Regulation of Health Maintenance Organizations

AFFIDAVIT OF MAILING

Debra L. Odenwald, being first duly sworn, deposes and says:

That on the 7th day of June, 1974, at the City of Minneapolis, County of Hennepin, State of Minnesota, She served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of the Secretary of State attached and made a part hereof as Exhibit A, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof, as well as to all members of the Minnesota Legislature as of the date of mailing.

Debra L. Odenwald

Subscribed and sworn to before me this 10th day of July, 1974.

Marie B. Tromiczak

MARIE B. TROMICZAK
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Oct. 9, 1980

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

STATE BOARD OF HEALTH

In the Matter of Proposed Amendments Relating to the Regulation and Certification of Health Maintenance Organizations

STATEMENT OF NEED

The above-captioned rules are amendments to existing rules of the State Board of Health.

The need to adopt these rules arises because of numerous proposals received at the time of the hearing of December 12, 1973, on the initial Health Maintenance Organization regulations. Many regulations were suggested which went beyond the scope of the original proposed regulations. Those regulations were shown to be insufficient in scope to fully implement the regulatory scheme which Minn. Stat. § 62D.01 et seq. requires the Board of Health to implement.

STATE OF MINNESOTA

BOARD OF HEALTH

WARREN R. LAWSON, M.D.
Secretary and Executive Officer

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

STATE BOARD OF HEALTH

In the Matter of Proposed
Amendments Relating to the
Certification and Regulation
of Health Maintenance Organizations

APPOINTMENT

David J. Giese is hereby appointed to serve as hearing officer on behalf of the State Board of Health in the above captioned matter, said hearing to be held on July 10, 1974, and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

This appointment is made pursuant to the following authority: resolution of the State Board of Health adopted at its meeting on April 11, 1974.

STATE OF MINNESOTA

BOARD OF HEALTH

WARREN R. LAWSON, M.D.
Secretary and Executive Officer

Dated: June 6, 1974.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

STATE BOARD OF HEALTH

In the Matter of the Proposed Amendments Relating to the Certification and Regulation of Health Maintenance Organizations

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Minnesota State Board of Health on the 10th day of July, 1974, at 9:30 A.M. in the Board Room, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, after proper notice required by Minn. Stat. § 15.0412 (1971) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence adduced and upon the records, file and proceedings herein, the Board makes and enters the following findings:

1. Authority to adopt regulations pertaining to the certification and regulation of Health Maintenance Organizations (H.M.O.s) is contained in Minn. Stat. §§ 62D.03 subd. 4 (m); 62D.04 subd. 1 (c); 62D.06 subd. 2; 62D.08 subd. 3; 62D.10 subd. 4; 62D.12 subd. 2 (g); and 62D.20. These statutes provide for clarification by the Board of Health of the responsibilities of H.M.O.s. Minn. Stat. § 62D.20 (1973 Supp.)

specifically states that the Board may "promulgate such reasonable rules and regulations as are necessary or proper to carry out the provisions of the [Health Maintenance] act." These regulations are within that grant of authority.

2. There is a need for these regulations. At the public hearing on the initial regulations promulgated under the Health Maintenance Act of 1973 (Act), many amendments were proposed which went beyond the scope of those regulations. Some of those proposals were incorporated into the regulations which are now being adopted. The Act was also amended during the last legislative session. As a result, these amendments are necessary to accommodate the statutory changes, including one which transferred certain functions from the Commissioner of Insurance to the Board of Health. The Board finds that these regulations, as adopted, are reasonable and necessary to carry out its duties under the Act.

3. MHD 367 (e)(4) changes the definition of one of the kinds of services that are included within the services which the Act requires an H.M.O. to offer. The amendment to the regulation changes the phrase "outpatient medical services" to "outpatient health services." This change in the wording is identical to a statutory change made in the 1974 legislative session and is found to be necessary to keep the regulation consistent with the statute. Another change in this regulation is the addition of certain specified types of treatment as being expressly included under outpatient health services. Under the present regulations, there is no permissible limitation of these services. Thus, they must be provided. However, these services have generally not been covered under traditional methods of financing health care. As a

result, some H.M.O.s may be unaware that they must provide these services. The Board finds that this amendment is therefore necessary to clarify some of the responsibilities of the H.M.O.

4. The Board finds that the amendment to MHD 367 (e)(4) requiring H.M.O.s to provide prescription drugs is a reasonable attempt to encourage the treatment of certain medical conditions on an outpatient basis since it is less expensive to do so at that time.

5. The recent legislative amendment to the Act transferred certain functions from the Commissioner of Insurance to the Board of Health. MHD 367 (m) and 367 (n) define the terms "open enrollment" and "underwriting restrictions." These terms pertain to a very important statutory requirement in Minn. Stat. § 62D.10 subd. 2 relating to an annual period of open enrollment in each H.M.O. and are found to be reasonable and necessary definitions of these two significant phrases.

6. Minn. Stat. § 62D.03 subd. 4 (c) requires a full disclosure of financial arrangements between principal officers or board members and the H.M.O. or any provider. The existing regulations did not make it clear as to whether disclosure is necessary when support other than monetary payments to the board members or principal officers is involved. The Board finds that MHD 368 (a)(2) is necessary to provide anyone with an interest in an H.M.O. with an accurate picture of the outside interests of an H.M.O.'s board member or principal officer. The Board further finds that this rule is necessary to carry out the full intent of the disclosure requirement in the Act.

7. The Act allows the Board to establish certain reasonable limitations and/or exclusions from the services an H.M.O. is required to cover. The Board finds that the limitation in MHD 369 (c)(2)(dd) on routine refractions is necessary to allow H.M.O.s to avoid a high frequency, high cost item which can probably not be justified when its medical necessity is compared to its utilization rate. Thus, this rule is found to be a reasonable permissive limitation or exclusion from required coverage.

8. MHD 369 (c)(2)(ff) allows the H.M.O. to exclude or limit certain unusual and/or high cost items which could, if required to be covered, result in a severe financial burden being placed on an H.M.O. and limit its ability to properly perform other services which have a much higher utilization rate. Therefore, this rule is found to be reasonable.

9. Minn. Stat. § 62D.02 subd. 7 requires an H.M.O. to offer inpatient hospital care as part of the minimum benefit package. Absent any express limitation of this requirement, the coverage provided would have to be limitless. Minn. Stat. § 62D.20 gives the Board the authority to create limitations or exclusions regarding the required amount of inpatient hospital care. The Board finds that the limitations in MHD (c)(3)(nn) relative to the days of hospital care and the type of service provided are reasonable in that they provide considerable coverage to the enrollee while limiting somewhat the financial risk to the H.M.O.

10. The consumer members of the Board of Directors must be elected by the enrollees and from among the enrollees pursuant to Minn. Stat. § 62D.06 subd. 1. Since the term "enrollee" refers to any covered person, the statute arguably allows anyone, including infants, to vote for the consumer board members. The Board finds that by requiring "contract holders" as defined in MHD 370 (c) to be allowed to vote, the number of potential voters is reasonably limited. Nevertheless all enrollees can have input into the election process. The Board finds therefore that MHD 370 (c) is reasonable and consistent with the Act by requiring the election of consumer members of the Board of Directors by a proper group of enrollees.

11. Other provisions of the regulations not specifically referred to herein are found to be supported by evidence in the record.

12. Many comments and suggested amendments were made at the hearing. Based thereon, modifications were made but in no instance do these modifications significantly change the substance of the regulations as presented at the public hearing.

13. These amendments are in keeping with and will help fulfill the policy of the state as expressed by Minn. Stat. § 62D.01 et seq. (1973 Supp.) as amended. In view of the increasing costs of health care and its increasing inaccessibility to large segments of the public, the H.M.O. concept is an alternative method of delivering health care services which needs to be fully explored. These amendments are designed to improve the quality and scope of health care

offered by H.M.O.s while allowing the H.M.O. to attempt to increase its efficiency in rendering health care to the consumer.

14. The attached memorandum is made a part of and incorporated into this Finding of Fact.

STATE OF MINNESOTA

BOARD OF HEALTH

Dated: September 6, 1974.

John H. Westerman

JOHN H. WESTERMAN, M.H.A.
President

M E M O R A N D U M

During its 1973 Session, the Minnesota Legislature passed the Health Maintenance Act of 1973 (hereinafter "Act"), the purpose of which was to encourage an alternative method for the delivery of health care services. The Act eliminated the barriers to the creation of Health Maintenance Organizations (H.M.O.s). The Board adopted a set of regulations in March, 1974, to begin carrying out its functions under the Act.

At the public hearing on December 12, 1973, on the initial H.M.O. regulations, a number of proposed additions and amendments were suggested. Many of these, though meritorious, were beyond the scope of the original regulations and therefore could not be promulgated absent another public hearing. This second public hearing was also required by the fact that the Minnesota Legislature, in its 1974 Session, amended the Act in a number of different ways. As a result, it became necessary for the Board to amend the regulations both to remain consistent with the amended sections of the Act and to begin carrying out additional duties which the legislature gave it.

These amendments are a reasonable attempt to carry out the intent of the Act. They were developed after considerable effort by the Board's staff, the Minnesota State Department of Health, and with the benefit of input from a variety of sources.

The regulations were modified after the public hearing based upon comments and suggestions made at the hearing and have been adopted by the Board as so modified. However, no change was made which went either to another

subject matter or resulted in a rule fundamentally different from that contained in the regulations as presented at the public hearing.

MHD 368 (a)(2) and 368 (a)(2)(cc) have been amended to clarify the disclosure requirements. This regulation is an attempt to require the disclosure of any indirect support which is given to an H.M.O. officer or director in situations wherein the support, although indirect, constitutes a very real relationship between the director or officer of the H.M.O. and an enterprise which is doing business with the H.M.O. The modifications which have been made subsequent to the public hearing were in response to numerous comments which were made suggesting that the proposed wording needed to be clarified. The present wording does not constitute a change in the substance of the proposed regulation. The Board is attempting to require disclosure of financial arrangements to the extent contemplated by Minn. Stat. § 62D.03 subd. 4 (c). The present wording of these two sections appears to be the clearest way of achieving that goal.

The wording of MHD 369 (c)(2)(dd) has been modified subsequent to the public hearing in accordance with certain comments received at the hearing and written statements which have subsequently been offered into the record. The general intent of MHD 369 (c)(2) is to permit H.M.O.s to limit or exclude the coverage of corrective appliances and artificial aids in situations where requiring the H.M.O. to provide coverage for such items could prove to be extremely costly. The proposed wording of MHD 369 (c)(2)(dd) could have been interpreted in such a way as to go considerably

beyond the Board's intent. The Board seeks only to allow limitations or exclusions as to routine eye refractions and the fitting and provision of eyeglasses and contact lenses. Such a limitation or exclusion is necessary to allow new H.M.O.s to avoid a high frequency and relatively high cost item which, in many instances, may not be medically necessary. The manner in which this regulation is now worded will allow such a limitation or exclusion from required coverage without allowing an H.M.O. to refuse to provide coverage for impaired vision which is not the routine type of matter as described above.

MHD 369 (c)(2)(ff) allows a limitation or exclusion of hemodialysis or other procedures for treatment of chronic renal failure, organ transplants, and/or experimental procedures. Thus, this clause is in keeping with the general policy of the regulation, MHD 396 (c)(2). This rule is needed to prevent the H.M.O. from being burdened with providing coverage for a catastrophic case which could well render the H.M.O. insolvent. Minn. Stat. § 62D.04 subd. 1 (f) would require the H.M.O. to bear the risk if the type of treatments and procedures contemplated by this statute were not excluded from the comprehensive health services which are required to be offered. Therefore, the H.M.O. would be able to insure against the potentially great losses in only a limited way. By allowing limitations or exclusions, this rule encourages the H.M.O. to fully cover these items because it permits H.M.O.s to obtain regular insurance and thereby frees them from being risk bearers as to these procedures. The desired result of this rule is that H.M.O.s will provide coverage for the specified procedures, yet the coverage will be one which

the H.M.O. will insure against, thus protecting the H.M.O. from incurring losses which could threaten its financial stability.

The regulation which is now designated as MHD 369 (c)(2)(nn) is a combination of several proposed regulations. The first change relates to proposed rule MHD 369 (c)(2)(ii). In response to suggestions made at the public hearing, that rule now has separate requirements relating to group, individual and out-of-area service coverage. This modification acknowledges the greater risk involved in providing individual coverage and out-of-area coverage as opposed to group and in-area coverage. These limitations on inpatient service relate to the fact that MHD § 62D.02 subd. 7 requires inpatient hospital care as part of the minimum benefit package. By operation of the Act and the definition of inpatient hospital service found in MHD 367 (e)(2), the extent of the inpatient hospital service coverage would have to be limitless. Since such limitless coverage could be extremely burdensome, financially, to the H.M.O., the Board has found that it is quite reasonable to limit to some extent both the days of coverage and the type of service that must be rendered during a day of coverage. As is shown in considerable detail in Exhibit G, an extremely small percentage of patients require hospitalization for a continuous period of time of longer than 90 days. Further, it is reasonable to anticipate that the rate of hospitalization for enrollees in an H.M.O. may well be less than for the population as a whole. Since almost all group coverage presently provides for 365 days of coverage for each period of confinement, this rule makes little change in the

present practice of group coverage except to allow an enrollee group to voluntarily opt for lesser limits of coverage. The lesser limits of coverage which are allowed by the regulation for individual contracts and out-of-area services is reasonable in view of the greater risks involved and the extensive coverage which is still provided to the enrollee. This regulation attempts to balance the enrollee's interest in obtaining comprehensive health service with the H.M.O.'s interest in maintaining fiscal responsibility, as required by Minn. Stat. § 62D.04 subd. 1 (e). This rule clearly is one which the Board has the authority to pass under Minn. Stat. § 62D.20. The rule is a reasonable attempt to balance the interests involved, especially in view of the extensive data which is contained in Exhibit G. Included in the aggregate number of days of coverage is both acute and convalescent care. Custodial or domiciliary care, however, may be limited or excluded pursuant to MHD 369 (c)(2)(gg).

A section which has been added subsequent to the public hearing and designated as MHD 369 (g) is merely a procedural rule designed to provide an orderly implementation of the new requirements of MHD 369. The rule allows an H.M.O. sixty days to prepare for coming into compliance with the new regulations. When contracts must be renewed after that sixty-day period has passed, the new contracts must be in full compliance with the regulations.

Pursuant to comments received in the record of the public hearing, MHD 370 (c) has undergone some modification. The statutory authority for this rule is Minn. Stat. § 62D.06 subd. 1. That rule requires that when an H.M.O. has been in operation for one year, at least 40 percent of the governing

body shall be composed of consumers "elected by the enrollees from among the enrollees." Minn. Stat. § 62D.02 subd. 6 defines "enrollee" to mean any person who has entered into, or is covered by, a health maintenance contract. If this broad definition of enrollee were applied to the voting requirement, then newborns, infants and children would be entitled to participate in the nomination and election of consumer board members. In view of the responsibility which must be attendant to participation in the election process, it is clear that for these specific purposes, the term "enrollee" cannot be given a broad interpretation. To do so would be both unreasonable and, from the H.M.O.'s viewpoint, unmanageable. In its proposed regulation, the Board limited the nomination and election process to all adult enrollees. While this was a reasonable limitation, testimony indicated that it would still be unmanageable for the H.M.O. to have such a large electorate. Most H.M.O. contracts are written for an individual. By paying a premium, many individuals obtain coverage for their spouses and children. Allowing the contract holder's spouse and children of adult age to participate in the nomination and election process would create an extremely difficult administrative problem for the H.M.O. Thus, the regulation adopted by the Board limits this process to all contract holders. Contract holders are all enrollees. Therefore, the statutory requirement that election be "by the enrollees" has been met. The regulation also defines the phrase "contract holder."

MHD 370 (c) further notes that "[a]ll enrollees must be afforded the benefits of the enrollee opinion mechanisms and the complaint system." This provision exists to clarify the fact that the mechanisms described in Minn. Stat. § 62D.06 subd. 2 are not limited to contract holders but, rather, are open to all enrollees.

MHD 375 (a) has been changed slightly in response to at least one comment at the public hearing that the Board's authority in the area of unfair trade practices is somewhat limited. The Board's authority relates to unfair, misleading and deceptive practices. This rule attempts to control any improper marketing techniques and, as adopted, it speaks more directly to this issue.

These amendments constitute a continuing effort by the Board to properly regulate the complex area of Health Maintenance Organizations. The testimony which was received at the public hearing was extremely beneficial. To the extent that this testimony suggested improvements on the proposed draft of the regulations, the Board has attempted to incorporate the recommendations into these regulations. In no case, however, were substantive changes made in the rules after the public hearing.

STATE OF MINNESOTA

BOARD OF HEALTH

Dated: September 6, 1974.

John H. Westerman

JOHN H. WESTERMAN, M.H.A.
President

CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

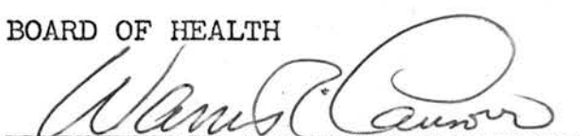
I, Warren R. Lawson, M.D., do hereby certify that I am the Secretary and Executive Officer of the Minnesota State Board of Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the said Board of Health duly and properly called and held on the 8th day of August, 1974; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the amendments to the rules relating to the Certification and Regulation of Health Maintenance Organizations, identified as MHD 367 to MHD 375 are found to be reasonable, necessary and supported by the evidence contained in the record, and are hereby approved and adopted, pursuant to authority vested in us by Minn. Stat. § 62D.01 *et seq.* and that Warren R. Lawson, M.D., Secretary and Executive Officer of the Minnesota State Board of Health, be and hereby is authorized to sign an order adopting those rules."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6 day of September, 1974.

STATE OF MINNESOTA

BOARD OF HEALTH



WARREN R. LAWSON, M.D.
Secretary and Executive Officer

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Warren R. Lawson, M.D., do hereby certify that I am the Secretary and Executive Officer of the Minnesota State Board of Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the said Board duly and properly called and held on the 11th day of April, 1974, that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

WHEREAS, the Minnesota State Board of Health (the Board) is required by law to develop governing health maintenance organizations (H.M.O.s), and

WHEREAS, on the fourteenth day of March, 1974, the Board adopted certain rules governing H.M.O.s, which create a basic format for a complete set of regulations, and

WHEREAS, there has been interest by members of the Board and members of the public in certain changes or additions to these rules,

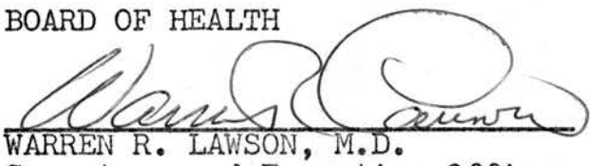
NOW THEREFORE BE IT RESOLVED, that Warren R. Lawson, M.D., Secretary and Executive Officer of the Board, shall be and he hereby is authorized and directed to call a hearing for the purpose of promulgating rules relating to health maintenance organizations, as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as acting as or appointing a presiding officer for all hearings.

Adopted this 11th day of April, 1974, by majority vote of the Minnesota State Board of Health.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6 day of September, 1974.

STATE OF MINNESOTA

BOARD OF HEALTH



WARREN R. LAWSON, M.D.
Secretary and Executive Officer

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

STATE BOARD OF HEALTH

In the Matter of the Proposed Amendments Relating to the Certification and Regulation of Health Maintenance Organizations

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Minnesota State Board of Health on the 10th day of July, 1974, at 9:30 A.M. in the Board Room, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, after proper notice required by Minn. Stat. § 15.0412 (1971) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Amendments to Regulations for the Certification and Regulation of Health Maintenance Organizations are adopted this 6 day of September, 1974, pursuant to authority vested in me by Minn. Stat. § 62D.01 et seq. and

by resolution of the Minnesota State Board of Health duly adopted at a meeting of the said Board on the 8th day of August, 1974.

STATE OF MINNESOTA

BOARD OF HEALTH

WARREN R. LAWSON, M.D.
Secretary and Executive Officer

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General John A. Breviu, do hereby declare that I have examined the proposed rules relating to the Certification and Regulation of Health Maintenance Organizations and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Dated: September 6, 1974.

John A. Breviu

Special Assistant
Attorney General