

Minnesota Attorney General: Administrative Rules Proceedings

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Barbara Gill
Special Assistant Attorney General
Public Welfare

11-7-77

- DPW 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218

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ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT Public Welfare

Office Memorandum

TO : Michael Miller, Special Assistant
Attorney General, Dept. of Administration

DATE: September 12, 1977

FROM : Barbara Gill, Special Assistant
Attorney General, Dept. of Public Welfare

SUBJECT: Submittal of Rules

Submitted for your approval pursuant to Mn. Stat. 15.0412 are Dept. of Public Welfare Rules #171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

Please contact me at 6-8406 if you have any questions concerning this submittal.

BG:RJH:sw

Attachments

RECEIVED
SEP 1 4 1977
Dept. of Administration

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I Special Assistant Attorney General Barbara Gill, do hereby declare that I have examined proposed Rules 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218 and all related documents and that, based upon them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Barbara D. Gill

BARBARA GILL

Dated: September 12, 1977

PROPOSED

MINNESOTA RULE DPW 171 - CHILDREN UNDER STATE GUARDIANSHIP - DEPENDENT/NEGLECTED

RECEIVED
MAY 6 1977
OFFICE OF HEARING EXAMINERS

A. Introduction

1. This rule identifies and governs the administration of local social service agency responsibilities for children under state guardianship as dependent or neglected pursuant to Minn. Statute 260.11 et seq., and the delegation to local social service agencies of the authority to grant consents.

2. The purpose of state guardianship is to carry out the responsibility to act and care for a child committed to the guardianship of the Commissioner of Public Welfare as dependent or neglected.

B. Definitions

1. Local Social Service Agency: Local agency under the authority of the County Welfare Board or Human Service Board responsible for social services.

C. General Responsibilities

1. The local social service agency having financial responsibility shall provide financial assistance and assure provision of social services, including protection, planning and decision-making either directly or indirectly through other agencies.

2. The local social service agency having financial responsibility shall notify the Commissioner of Public Welfare within 30 days after commitment of a child to state guardianship.

3. The local social service agency having financial responsibility shall prepare and carry out a plan for the care and supervision of the child through its own agency or an agency that agrees to supervise the child.

a. The client social service plan (see DPW Rule 160) shall be developed with the child and reviewed with the child at least annually.

b. The plan shall meet the emotional, physical, educational, vocational and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child.

c. The plan shall establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority.

d. The plan permitting a child to assume responsibility to meet his own needs without agency guidance shall not preclude agency responsibility to be aware of the child's needs and provide for them if necessary.

e. The goals, plans and objectives for children under the supervision of private agencies shall be made only with the agreement of the local social service agency having financial responsibility.

4. When a child moves from the county of the local social service agency having financial responsibility, the local social service agency of the county where the child will reside shall be notified in writing with a request to supervise the child. The supervising local social service agency shall provide services, and issue consents on behalf of the child and provide reports requested by the local social service agency having financial responsibility.

5. The local social service agency having financial responsibility shall notify in writing, with a request to supervise, each succeeding local social service agency when the child moves from one geographical area of supervision to another.

6. The local social service agency having financial responsibility shall assure the appointment of a guardian ad litem in the appropriate court to represent the child under state guardianship:

a. When the child has a legal claim against another party;

b. When the child has an interest in an existing legal action;

c. When an action has been instituted against the child by another;

and in all other instances when the best interest of the child requires legal counsel.

D. Consents

1. The following consents are delegated to local social service agencies:

a. Autopsy

b. Baptism

c. Change of name

d. Publicity about the child

e. Driver's license

f. Enlistment in the armed services, peace corps or job corps

g. Giving the body or parts of the body to science after death

h. Admission to a state hospital or other psychiatric treatment facility to the extent permitted under law

i. Marriage

j. Medical treatment

k. Psychiatric treatment

l. Surgical treatment

m. Abortion

(1) To extent required by law, the local social service agency may not withhold consent.

n. Tuition waiver

o. Permanent placement agreement

p. Transfer of guardianship

2. All consents not specifically delegated to local social service agencies may be issued only by the Commissioner of Public Welfare. The consents not specifically delegated include:

a. Adoption

b. Exportation (out-of-state) for foster care or adoption

c. Leaving the state or country for more than 90 days

d. Giving a part of the body for therapeutic purposes for another person while the child is living

e. Transfer from one state hospital to another state hospital

f. Sterilization

g. Separation of siblings after date of appointment of Commissioner of Public Welfare as guardian

E. Disposition of the Social Welfare Fund

1. The local social service agency having financial responsibility may apply for and receive survivor benefits for an eligible child under state guardianship. The benefits may be applied to the maintenance and support of the child, and any excess amounts held in a social welfare fund, or the total benefits may be accumulated in the social welfare fund.

a. Upon reaching age 18, the accumulated balance in the social welfare fund is to be paid directly, at that time, to the person for whom the survivor benefits were received.

F. State Guardianship Benefits Up to Age 21

1. An individual who was under state guardianship at age 18 is eligible for guardianship benefits up to age 21 at the request of the individual.

DR/hej

PROPOSED

MINNESOTA RULE DPW 200: ADOPTION

A. Introduction

1. Goal of the Minnesota Adoption Program: To ensure for each child, who is free to be legally adopted in the state, a suitable adoptive home and agency services supportive of his integration into the new family.

2. Definitions

a. Adoptive home: A home approved by an authorized child-placing agency for the purpose of placing a child for adoption.

b. Authorized child-placing agency: The local social service agency or any agency licensed to place children by the Commissioner or by a comparable authority in the state or country in which the agency exists.

c. Child: An individual under 18 years of age.

d. Foster family home: A family home licensed to provide 24-hour-a-day care to children who are unrelated to the family.

e. Genetic parent: An individual who is referred to as the child's natural parent, who is named in the child's original birth certificate as a parent, whose claim to genetic parenthood is unchallenged, or whose genetic parenthood is established by a court of competent jurisdiction.

f. Independent placement: A proposed or actual nonagency placement of a child by a natural parent or unlicensed third party with persons not related to the child within the third degree.

g. Infant: A child under the age of fifteen months.

h. Licensed child-placing agency: An agency authorized by the Commissioner to place children for foster care or adoption.

i. Local social service agency: The local agency under the authority of the county welfare board or human service board responsible for arranging and providing social services to individuals.

j. Post-placement services: Social services provided to the child and the adoptive parents from the time of placement until legal adoption.

k. Post-adoption services: Social services provided after legal adoption to the adoptive parents, genetic parents or adopted individuals.

l. Relative: An individual who is related to a child within the third degree according to the Civil Table of Consanguinity by blood, marriage or adoption as a parent, stepparent, brother, sister, grandparent, great grandparent, aunt, uncle, niece or nephew.

m. State Adoption Exchange: The central adoptive home and child registration service operated by the Minnesota Department of Public Welfare's adoption unit for use by authorized child-placing agencies.

n. State agency: The Commissioner of Public Welfare or the Minnesota Department of Public Welfare.

o. Subsidized adoption: An adoptive placement in which a contract provides that financial reimbursements will be made to the adoptive parents for a child who has special needs.

p. Suitability study: The pre-adoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the needs of a particular child.

B. Legally Freeing the Child for Adoption

1. The child shall be legally freed for adoption by either a termination of parental rights pursuant to the Juvenile Court Act, or by a voluntary surrender to the Commissioner or to a licensed child-placing agency pursuant to statute.

a. Before a valid agency adoptive placement may occur, court termination of the parent's rights or a voluntary relinquishment to a child-placing agency must be obtained from any individual recognized by state law as having parental rights.

2. All written consents to adoption, executed in a manner prescribed by law, shall be filed with the court prior to the hearing on the adoption petition.

3. All surrenders and consents to adoption (except those given by the Commissioner, his agent or a licensed child-placing agency) shall be executed before two competent witnesses and an agency representative, and shall be filed in court prior to the date of the hearing. Consents obtained in another state may be executed according to either Minnesota law or applicable laws of the other state.

see p. 20 T for addition

a. Both the consentor's and the agency representative's signature must each be duly notarized.

b. The two witnesses shall be 18 years of age or older and of sound mind, and neither shall be the subscribing notary public.

c. The agency representative shall be a person qualified to counsel the consenting party on adoption matters.

4. Affidavits submitted by individuals who allege or deny parenthood which contain a consent to adoption must be executed according to the requirements set forth in section three, supra.

C. Services for Children Freed for Adoption

1. State Adoption Exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the Commissioner. This provision shall not apply to ~~local~~ licensed child placing agencies: Hennepin, Ramsey or St. Louis Counties, whose use of the Exchange is optional.

a. The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, racial or religious heritages, physical or educational needs.

b. The local social service agency shall make reasonable efforts to provide for and preserve the child's heritage by placing the child:

(1) In an adoptive home of similar background; or

(2) In an adoptive home which is knowledgeable and appreciative of the child's heritage.

2. The Child's Foster Home. The local social service agency may consider the foster home in which the child is currently living as a potential adoptive resource for the child.

a. In such cases, at least one of the following criteria shall apply:

(1) The child has special needs (physical, mental or emotional) which the foster family will be able to adequately meet.

(2) The child is older than an infant, has lived at least twelve consecutive months in the foster home, and is an integrated member of the foster family.

(3) The foster family will be able to accept the child and his background and help the child understand his adoption.

(4) The foster family is either the best adoptive resource for the child or is at least comparable to available resources.

b. Except in Hennepin, Ramsey and St. Louis Counties, a joint decision between the state agency's adoption unit and the local social service agency as to whether the foster home would be a suitable adoptive home for the child shall be made. The decision shall be based upon:

(1) The local social service agency's written statement and recommendation to the state agency identifying applicable criteria; and

(2) The state agency's written response either approving or disapproving the recommendation.

c. Where a licensed child-placing agency, which is supervising a child under state guardianship, wishes to consider the foster home as the adoptive resource for the child, it shall obtain approval from the local social service agency which has financial responsibility.

3. Child Placement. The following policies shall govern the local social service agency's child-placing activities:

a. Preplacement activities:

(1) The social worker assigned to the adoptive home shall, prior to the child being placed in the adoptive home, visit the child in his foster home. This preplacement visit may only be waived if the child is under six months of age and is without special needs.

(2) The child's social worker shall provide the adoptive parents with a written genetic and medical history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

(3) An adoptive family shall spend at least two days in the child's community becoming acquainted with the child prior to the transfer of physical custody from the agency to them. This provision may be waived, in the discretion of the agency, where extraordinary circumstances dictate prompt placement.

4. Subsidized Adoptions. Subsidized adoption is available through the local social service agency for a child under state guardianship who is not readily adoptable because of special needs (due to age, race, physical, mental, or emotional conditions), his membership in a sibling group, or whose prospective family is unable to adopt him due to financial limitations.

a. The amount of the maintenance subsidy paid by the local social service agency shall not exceed the county welfare or human service board's schedule of regular or special rate payments for a child in foster care.

b. The amount of a medical subsidy shall include the estimated cost for medical care, treatment and/or therapy.

c. A subsidized adoption contract shall be reduced to writing on the local social service agency's official stationery, signed by all relevant parties and approved by the Commissioner prior to legal adoption.

(1) Once fully executed and approved, all parties shall be given copies of the contract.

(2) A copy of the contract is to be filed with the proper court prior to the time the adoption matter is heard.

(3) The contract shall remain in effect even though the family moves out of the State of Minnesota.

(4) The contract shall be reviewed annually by the subsidizing county welfare or human service board to determine whether significant changes have occurred which require amendment of the contract.

(5) The adoptive parents have the right to appeal to the Commissioner pursuant to Minnesota Statutes, Chapter 15, when the county welfare or human service board denies, discontinues or modifies the contract.

d. The local social service agency is entitled to seek reimbursement of its subsidy expense from the State's Child Welfare Fund up to the legislatively authorized percentage.

e. The following procedures shall be implemented when initiating an adoption subsidy:

(1) When considering the child's need for subsidy:

(a) Review the child's eligibility for alternative financial and/or medical resources;

(b) Process through the State Adoption Exchange for a review of suitable homes; and

(c) Utilize the public media to recruit adoptive resources.

(2) When attempting to establish the amount of the subsidy:

(a) Determine the amount of the child's financial and medical benefits, if any;

(b) Determine the family's financial and medical resources for meeting the child's special needs; and

(c) Obtain preliminary approval from the county welfare or human service board for a medical and/or maintenance subsidy.

(3) Each subsidized adoption contract shall include:

(a) A statement of the purpose of the agreement: maintenance, medical and/or special needs of the child;

(b) The arrangements for payment and receipt of the subsidy.

5. Post-Placement Services. The local social service agency which supervises the child in his adoptive placement is to provide post-placement services.

a. The local social service agency placing the child shall be responsible for arranging and obtaining written placement and post-placement notes from the agency supervising the adoptive placement.

6. Termination of Adoptive Placement.

a. The local social service or licensed child-placing agency supervising the child shall notify the state agency's adoption unit within five (5) working days when the child's adoptive placement is terminated, when one of the following circumstances arise;

(1) The child is removed from the adoptive home;

(2) The child dies; or

(3) The adoptive placement has continued for two (2) years without the formalization of the adoption;

(4) Adoption is no longer the agency's permanent plan for the child.

b. Termination of the adoptive placement by a local social service agency may be made only upon a specific finding of good cause by responsible agency personnel. Good cause exists when the placement is shown to be detrimental to the physical, mental or emotional well-being of the child or the adoptive parents. Prior to seeking the removal of the child from the home, the agency shall:

(1) Inform the adoptive parents in writing of the reasons for removal.

(2) In an emergency situation involving danger to the child's health or well-being, request the assistance of the appropriate law enforcement authorities in the immediate removal of the child from the home.

D. Services to Children in Independent Placements

1. When the local social service agency learns that a parent seeking to place the child desires to place the child with an identified family, the local social service agency shall provide services in evaluating this plan, unless:

a. The prospective parent is related to the child; or

b. The natural parent is receiving services with a licensed child-placing agency.

2. When the local social service agency learns that a court of competent jurisdiction has waived the agency placement requirement, whether or not the child is already in the home:

a. The local social service agency shall pursue licensing that home for foster care; and

b. The prospective parents shall notify the Commissioner of the child's placement within thirty (30) days of that placement unless the Commissioner was already involved in the proposed placement.

3. When the local social service agency learns that the natural parent and/or prospective parent desire to place the child through the assistance of an unlicensed intermediary, the local social service agency shall take necessary steps, including legal actions, if necessary, to prohibit such a placement from occurring.

4. When the local social service agency learns that the child's parent, legal guardian, prospective parents, or the unlicensed intermediary desire to transport the child into or out of Minnesota for placement, the local social service agency shall advise the party or parties that such transportation requires the prior approval and consent of the Commissioner.

a. The Commissioner shall not give consent to or approval of importation or exportation of the child when a proposed placement is being arranged by an unlicensed intermediary even though a court of competent jurisdiction may waive the agency placement.

b. Applications for importation or exportation of a child must be made by the natural parent or legal guardian according to the statutory provisions of both the sending and the receiving states.

5. When the local social service agency learns that a child is residing in a nonrelative home, it shall carry out the duties of the Commissioner and provide all appropriate child protection services prescribed in the Public Welfare Licensing Act, child placing statutes, and the Juvenile Court Act.

a. Local social service agency actions may include, but are not limited to:

(1) Licensing current home or placing the child into a licensed foster home;

(2) Obtaining temporary legal custody;

(3) Providing services to natural parents in making appropriate permanent plans for the child;

(4) Returning the child to a responsible agency in the state of origin when child was imported into Minnesota in violation of statutes.

b. In addition, the local social service agency shall, within thirty (30) days, submit to the state agency a full written report of its investigation of the proposed or actual placement. The report shall include:

(1) Names and addresses of natural parents, child, and intended home;

(2) The names, addresses, dates and activity on all individuals involved in the independent placement plan;

(3) The circumstances surrounding the placement plan;

(4) Any promise or actual payments of money, and amounts of such payments.

c. The local social service agency shall, in writing, request the county attorney's opinion on taking legal action against the individuals involved in violations of child placement statutes.

d. The state agency's adoption unit shall recommend to the local social service agency any additional action required for the protection of the child.

E. Services to Families Applying for Adoption

1. Each local social service agency shall establish an intake policy which provides for:

a. Performance of a suitability study upon the receipt of a properly filed adoption petition;

b. Screening of applications received from potential adoptive parents for children under state guardianship and other adoptable children who have special needs;

c. Supervision of adoptive families moving into Minnesota when so requested by the prior state of residence through the state agency's adoption unit; and

d. Performance of suitability studies on prospective families when requested by the state agency's adoption unit for out-of-state adoption agencies.

2. Local social service agencies, at the minimum, shall consider the following basic standards when determining the suitability of prospective adoptive homes:

a. The applicant must be primarily motivated to meet the child's needs, emotionally mature with healthy interpersonal relationships, in good physical and mental health, and able to adequately support and parent a child in an emotionally secure environment.

b. The applicant must have the capacity to accept and incorporate into his family a child born to other parents and to assist the child in understanding his genetic background and adoption.

3. The local social service agency is responsible for determining the suitability of adoptive parents with whom it has accepted for service.

a. Prospective adoptive homes which the local social service agency certifies as suitable for placement of a child shall be registered on the State Adoption Exchange. (This requirement is optional for Hennepin, Ramsey and St. Louis Social Service Agencies.)

b. Prospective adoptive homes deemed unsuitable by the local agency shall be informed in writing of any such decision. Notification shall be sent after the agency has counseled with the family on the relevant facts upon which the decision was based.

(1) Prospective adoptive homes which the local agency determines are not suitable for an adoptive placement may be further reviewed by that agency, the county welfare or human service board, and/or the state agency's adoption unit upon the written request of the applicant. Such review shall be limited to those factors on which the local agency based its decision.

(2) Grievances arising out of adverse suitability studies are not subject to further administrative review.

F. Interstate and International Adoptive Placements

1. No child shall be brought into or sent out of the State of Minnesota for adoptive placement into a nonrelative's home unless one of the following conditions is met:

a. The Commissioner, as state administrator of the Interstate Compact on the Placement of Children, issues written approval for the importation or exportation pursuant to the requirements of that Compact; or

b. The Commissioner has, in non-Compact situations, issued a written consent to importation or exportation of the child, pursuant to applicable state law.

2. The Commissioner shall not issue consent or approval for the movement of a child across state lines where the proposed placement plan is made by an unlicensed third party.

3. The Commissioner, upon receipt of all required documentation, shall issue consent or approval for importation when:

a. The foreign country allows the child to be exported for the purpose of adoption in the United States; or

b. An authorized child-placing agency in the sending state has custody of the child and requests the importation into Minnesota; or

c. A family plans to move to Minnesota and has a child placed with them according to the laws of the other state or country.

4. The documents required for the Commissioner's consent and approval are:

a. An authorized child-placing agency's written confirmation that the family is approved for adoptive placement;

b. A document which identifies the child, his birth date, birthplace, and his parentage; and

c. Legal documents which demonstrate that the child has been properly released for adoption.

5. Local social service agencies (other than Hennepin, Ramsey and St. Louis Counties) shall route correspondence directed to out of state agencies through the state agency's adoption unit.

G. Legalization of the Adoptive Placement

1. The Commissioner or authorized child-placing agency shall initiate the process of legalizing adoptive placements of agency-placed children by sending the petitioner, or his attorney, such information as is needed for completion of the adoption petition.

2. When an adoption petition, which fails to meet the filing requirements of Minnesota Statute 259.22, Subd. 2 and 3, is nevertheless filed in a court of competent jurisdiction, the Commissioner shall recommend to the court dismissal of that petition.

3. The final report and recommendation on a petition under investigation by the Commissioner or authorized child-placing agency shall be made to the court within the ninety (90) day time period.

a. The Commissioner or authorized child-placing agency shall request a continuance of the court when the investigation cannot be completed in the ninety (90) day time period.

b. A copy of all requests for continuances shall be filed with the state agency's adoption unit, the servicing agency, and the petitioner's attorney.

H. Post Adoption Services

1. Post adoption services shall be provided to adoptive families, adopted adults, and genetic parents at their request in a manner which strengthens the adoption contract and which is within the parameters of applicable state law and federal regulations on confidentiality and privacy of child welfare and adoption records.

2. General background information with the deletion of all identifying information such as names, specific dates, addresses and locations, shall be prepared to aid the adopted adult in understanding his genetic background and adoption.

3. Local social service agencies shall provide liaison and skilled counseling services through appropriately trained social workers to the adoptive parents, adopted adult, genetic parents, and/or siblings where there exists a mutual desire to arrange contact and there exist no known factors ~~preventing~~ prohibiting such contact.

4. Local social service agencies shall maintain a record of all such services provided in each individual's adoption record.

I. Maintenance of Adoption Records

1. Content: Each child's adoption record shall contain copies of all

relevant legal documents, responsibly collected genetic, medical and social history, the child's placement record, copies of all pertinent agreements or contracts, copies of all reports and recommendations to the court, and copies of all pertinent correspondence.

2. Use: Each adoption record shall constitute the permanent record upon which all court action is based, agency services are administrated and the adoptive family unit is identified and established.

3. Retention: Adoption records, as described in I, 1., shall be retained on a permanent basis and shall be kept in locked vaults, locked storage cabinets or under a protected records system which guarantees confidentiality and ensures lasting preservation.

DR/hea

PROPOSED

MINN. RULE DPW 210 - COUNSELING SERVICES FOR FAMILIES AND INDIVIDUALS

A. Introduction

1. This rule governs the provision of counseling services for families and individuals by local social service agencies.

2. Definitions:

a. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

b. Counseling Services for Families and Individuals: The utilization of a professional helping relationship to enable individuals and families to deal with and to resolve whatever intra or interpersonal relationship problems or stress is encountered by them.

B. Standards of Service

1. The local social service agency electing to offer counseling services for individuals and families shall indicate in its annual social service plan the components of the service the agency intends to provide.

2. The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

a. Assistance to an individual in resolving problems in relationship with others or with problems in individual adjustment.

b. Assistance to families in resolving marriage problems.

c. Assistance to families in resolving family problems.

d. Assistance to unmarried parents in resolving problems related to an unwanted pregnancy or in planning for the care of the child.

e. Family life educational programs.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of counseling services for families and individuals as are consistent with state and federal laws.

4. The local social service agency upon referral from a family or domestic relations court shall:

a. Provide premarriage counseling to individuals and prepare an evaluation for the court.

b. Provide counseling to parties in a divorce action.

c. Conduct court-ordered custody studies.

PROPOSED

MINN. RULE DPW 211 - EDUCATIONAL ASSISTANCE

A. Introduction

1. This rule governs the provision of educational assistance by local social service agencies.

2. Definitions:

a. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

b. Educational Assistance: Educational assistance are those services which are designed to arrange and provide education and training, not directly related to employment, most appropriate to the individual's abilities -- including special educational assistance to the blind, deaf and other disability groups and individuals with school adjustment problems.

B. Standards of Service

1. The local social service agency electing to offer educational assistance shall indicate in its annual social service plan the components of the service the agency intends to provide.

2. The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

a. Social service in a school setting.

b. Counseling to parents and children to facilitate school adjustment.

c. Assisting mentally ill/behaviorly disabled persons to obtain educational training opportunities.

d. Assisting physically handicapped to obtain appropriate educational and training opportunities.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of educational assistance services as are consistent with state and federal laws.

P R O P O S E D

MINN. RULE DPW 212 - HOUSING SERVICES

A. Introduction

1. This rule governs the provision of housing services by local social service agencies.

2. Definitions:

a. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

b. Housing Service: Housing services are those services which are designed to help individuals obtain, maintain and improve housing and/or to modify existing housing.

B. Standards of Service

1. The local social service agency electing to offer housing services shall indicate in its annual social service plan the components of the service the agency intends to provide.

2. In the delivery of this service, the local social service agency may offer any one or combination of the following components:

a. Assisting individuals in finding rental or purchased housing.

b. Information on how to obtain technical assistance to make housing improvements.

c. Education concerning home purchase, rental, repairs, remodeling.

d. Assistance in resolving tenant-landlord conflict.

e. Assistance in maintaining or enforcing, or improving housing codes.

f. Finding emergency shelter in crisis situations.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of housing services as are consistent with state and federal laws.

PROPOSED

MINN. RULE DPW 213 - INFORMATION AND REFERRAL SERVICES

A. Introduction

1. This rule governs the provision of information and referral services by local social service agencies.

2. The purpose of this service is to provide accurate and up-to-date information about social and human services to individuals seeking such information, and to facilitate access to these services by individuals through a referral procedure.

3. Definitions:

a. Information and Referral: The provision of information to individuals seeking knowledge of social and human services, and the assistance to individuals in making contact with a resource that can respond to their need or problem.

b. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

c. Resource File: Compilation of information that identifies the opportunities, resources and services in a community, a region, or a state and the agencies and organizations through which they are available to a total consumer population.

d. Information Giving: Provision of information about services and programs that may include a brief assessment of the need or problem and some effort to obtain sufficient background material about the inquirer to determine his/her potential eligibility for a specific service or agency.

e. Referral: The identification for a client of an agency or organization able and willing to provide the service needed and aiding the person in making contact with that agency or organization through such procedures as a written summary of the problem or request, telephone or personal contact on behalf of the client.

f. Follow Up: Process of making contact with either the inquirer or the agency to which (s)he was referred to determine what was the outcome of the referral.

g. Escort: Provision of a person to assist inquirer in gaining access to the service.

h. Outreach: Activity in which an active effort is made to reach out to individuals to help them make use of existing services and agencies.

i. Intake: Process providing help to clients in clarifying need, considering alternative services appropriate to need, defining goals client desires to achieve, and arrive at an understanding in regard to utilization of services or assistance.

B. Local Social Service Agency Standards of Service

1. Information and referral may be provided as a separate and discrete service or as a function of the intake service of the agency.

2. The local social service agency planning to offer information and referral services shall indicate in its annual plan whether information and referral is provided as a separate and discrete service or as a function of the intake service of the agency.

3. When information and referral is offered as a separate and discrete service, in addition to the standards set forth in Sections B4 through B8 the agency shall:

a. Maintain a separate telephone listing for information and referral services.

b. Make efforts to publicize through media and other forms of public information such services as a separate agency function.

c. Have staff with identifiable tasks relating to information and referral.

4. Information and referral service shall include the maintenance of a comprehensive resource file. The resource file shall be updated and revised at least semi-annually.

5. Information and referral service shall include the offering of the following services:

a. Information giving.

b. Referral.

c. Follow up.

6. Information and referral service may include provision of the following supplementary services:

a. Escort to referral agency.

b. Outreach services.

7. The information and referral service shall include the development and maintenance of a system for recording data that shall:

a. Record the nature of calls received and of the agencies and organizations to which they are directed or referred.

b. Indicate what follow up activities were undertaken.

c. Maintain records of services which were needed but were not available.

8. The information and referral service shall include the maintenance of records and reports in such a manner that the identity of persons using the service are not revealed or accessible to anyone other than the staff members undertaking to assist them.

9. The agency may elect to offer data gathered in the delivery of information and referral services to appropriate community and state planning agencies.

PROPOSED

MINN. RULE DPW 214 - LEGAL SERVICES

A. Introduction

1. This rule governs the provision of legal service by local social service agencies.

2. Definitions:

a. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

b. Legal Services: Legal services are those services which are designed to arrange and provide for assistance in resolving civil legal matters and the protection of legal rights.

B. Standards of Service

1. The local social service agency electing to offer legal services shall indicate in its annual social service plan the components of the service the agency intends to offer.

2. The local social service agency, in the delivery of this service, may make available legal counsel for the following kinds of legal problems:

a. Divorce proceedings.

b. Custody hearings.

c. Tenant-landlord disputes.

d. Property purchase - sale.

e. Contract problems.

f. Appeals on behalf of clients challenging the actions or policies of federal, state or local public welfare agencies.

g. Consumer problems.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of legal services as are consistent with state and federal laws.

PROPOSED

MINN. RULE DPW 215 - MONEY MANAGEMENT SERVICES

A. Introduction

1. This rule governs the provision of money management services by local social service agencies.

2. The purpose of this service is to assist eligible individuals in the management of their income so that they are able to obtain a stable level of economic functioning within the limits of their present financial resources.

3. Definitions:

a. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

b. Money Management Services: Money management services are those services that arrange and provide assistance in developing effective personal budgets and managing indebtedness.

c. Consumer Education: Consumer education is the offering of, on an individual or group basis, education in management of a household budget, food purchasing and preparation, credit buying and other consumer related concerns.

d. Financial Counseling: Financial counseling is a process whereby the client is assisted in developing a workable budget and is helped to change poor money management habits.

e. Debt Adjustment: Debt adjustment is a service whereby the agency, with permission of the client, receives a portion or entire amount

of his/her income and pays creditors an agreed upon pro-rated amount each month from the income received.

f. Protective Payment: Protective payment is a procedure whereby a money payment is not given directly to the client, but rather, to an individual designated by the agency to assume responsibility for the client's expenditures.

g. Vendor Payment: Vendor payment is a procedure limited to public assistance recipients whereby a designated portion of the AFDC payment is made directly by the agency to a provider of goods or services.

B. Standards of Service

1. The local social service agency electing to offer money management services shall indicate in its annual social service plan the component of the service the agency intends to provide.

2. In the delivery of this service, the local social service agency shall offer to potential clients any one or combination of the following components:

a. Consumer education.

b. Financial counseling.

c. Debt adjustment service.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of money management services as are consistent with state and federal laws.

C. Money Management Service in the Use of Protective and Vendor Payments

1. Upon referral from the Income Maintenance Division of the local welfare agency, the local social service agency shall determine the need for a protective or vendor payment arrangement for public welfare clients.

2. The local social service agency shall:

a. Make an assessment of the problem;

b. Offer money management services to resolve the problem;

c. Determine if protective or vendor payments are needed.

3. Every effort shall be made to resolve money management problems through provision of services that leave the client with the greatest degree of control of his/her affairs consistent with the well-being of the individual and his family.

4. When it is established that money management services are not adequate to resolve the problem, the local social service agency shall recommend to the referring party the establishment of protective or vendor payments.

5. In making the recommendation the local social service agency shall:

a. Document that the client's present management of funds is threatening to his/her well-being or the well-being of his/her children.

b. Recommend the payment method (protective or vendor) most appropriate to the client's need.

c. Recommend the choice of a protective payee. The client is to be involved in the selection process.

(1) Excluded payees are county welfare directors, welfare board members, landlords, grocers, and vendors of goods and services who deal directly with clients.

(2) A local social service agency staff member may be the protective payee for clients if no other suitable payee can be found.

d. Define the respective responsibilities of the protective payee, agency and client in writing with copies given to payee, the client and the agency.

6. The local social service agency shall continue to offer money management services to assist the client to resume total responsibility for managing his/her grant.

7. The local social service agency shall review the need for protective/vendor payments quarterly and inform the referring party whether there is a need to continue protective or vendor payments.

8. Protective and vendor payments in AFDC cases shall not continue for more than two years, and are subject to a fair hearing appeal by the recipient.

9. In AFDC cases, the local social service agency shall recommend appointment of a guardian or placement of children with a relative or in foster care if money management problems are not resolved after two years of protective/vendor payments.

PROPOSED

Minnesota Rule DPW 216 Residential Treatment Service

A. Introduction

1. This rule governs the provision of residential treatment service by local social service agencies to individuals placed in residential facilities.

2. Definitions

a. Residential Treatment Service - The arrangement for and provision of a therapeutic or developmental experience within a controlled twenty-four-a-day residential facility.

b. Residential Facility - Any facility, public or private, which provides twenty-four-a-day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment which cannot be furnished in a person's own home. Residential facilities include, but are not limited to, state institutions, residential treatment centers, residential training centers, maternity shelters, group homes, residential programs such as halfway houses and primary treatment centers, or schools for handicapped children. Residential facilities, for purposes of this rule, do not include foster family homes.

c. Local Social Service Agency - Local agency under the authority of the County Welfare Board or Human Service Board which is responsible for social services.

d. State Agency - Minnesota Department of Public Welfare.

B. Standards of Service

1. The local social service agency shall utilize only those residential facilities which meet all licensing or certification standards established by the state. If out-of-state facilities are utilized, the facility shall meet standards comparable to those established by Minnesota state agencies.

2. The local social service agency shall base its selection of a residential facility on the facility's capacity to meet the client's individual needs. When there is more than one approved vendor who could meet the client's needs, the client is to be allowed to select the vendor of his choice.

3. The local social service agency shall give the residential facility that information which the facility determines that it needs to provide appropriate care and treatment, provided that the information is accompanied by a signed release-of-information form from the client.

4. The local social service agency shall collaborate with the facility in the development, ongoing evaluation and implementation of the client social service plan and, to the extent possible, shall utilize the assistance of the facility in developing post-discharge plans for the local agency's continuing services to the total family.

5. The local social service agency shall establish a written agreement with the residential facility which shall include, but not be limited, to the following:

a. Goals of the placement.

b. Specific responsibilities of the placing agency and the facility in the delivery of services to the client and/or the client's family.

c. Requirements for progress reports.

d. Expectations of what services will be delivered, and by whom, when the client is discharged.

6. The local social service agency shall help the client:

a. Determine if he needs a residential facility.

b. Participate in the selection of a suitable residential facility.

c. Determine what assistance he may want from the agency.

d. With his adjustment to the facility and to bring any concerns about conditions in the facility to the attention of the operator.

e. Plan for disposition of belongings, if appropriate, or plan for the retention of his room, apartment, or house for that period of time that he receives services in a residential facility.

7. The local social service agency shall assure that provision is made to help the client, to the extent possible, to:

a. Maintain family and community ties.

b. Make use of community resources, if appropriate, including social and recreational opportunities.

c. Obtain regular medical and dental evaluation, if indicated, carry out any prescribed program of medical care, and arrange for needed funding for such care.

d. Secure and utilize supportive services, such as transportation.

e. Move to an independent living arrangement or another facility, if indicated.

f. Achieve the objectives of the post-discharge plan.

CR/hhx

PROPOSED

MINN. RULE DPW 217 - SOCIAL AND RECREATIONAL SERVICES

A. Introduction

1. This rule governs the provision of social and recreational services by local social service agencies.

2. Definitions:

a. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

b. Social and Recreational Services: Social and recreational services are those services which are designed to arrange and provide opportunities for personal growth and development and which enable individuals to participate in activities that maintain physical and mental vitality.

B. Standards of Service

1. The local social service agency electing to offer social and recreational services shall indicate in its annual social service plan the components of the service the agency intends to provide.

2. The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

a. Activities that individuals participate in growth experiences such as camping, hobbies, recreational social programs in the community.

b. Programs that provide youth an opportunity for relationships with an adult.

c. Activities that involve senior citizens in special social recreational programs for the aged.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of social and recreational services as are consistent with state and federal laws.

PROPOSED

MINN. RULE DPW 218 - TRANSPORTATION SERVICES

A. Introduction

1. This rule governs the provision of transportation services by local social service agencies.

2. Definitions:

a. Local Social Service Agency: Local agency under the authority of the county welfare board or human service board which is responsible for social services.

b. Transportation Services: Transportation services are those services which are designed to arrange and provide travel and escort to and from community resources and facilities.

B. Standards of Service

1. The local social service agency electing to offer transportation services shall indicate in its annual social service plan the components of the service the agency intends to provide.

2. The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

a. Arranging for volunteer drivers to transport individuals to and from community resources and facilities.

b. Reimbursement for transportation cost incurred in going to and from community resources and facilities.

c. Escorting individuals to and from community resources and facilities in agency owned or leased vehicle.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of transportation services as are consistent with state and federal laws.

4. The local social service agency shall use for transportation services only drivers or carriers that have a valid drivers license and adequate insurance coverage including auto insurance required by the state.

DPW Ex. 1

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217, and 218.

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on June 10, 1977, commencing at 9:00 A. M. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Date: 4/28/77

DPW Ex. 2 PE

RECEIVED
MAY 9 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES, RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on June 10, 1977, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter C. Erickson, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, 612-296-8118, either before the hearing or within 20 days after the close of the hearing.

The proposed rule D.P.W. 171, Children Under State Guardianship - Dependent/Neglected establishes standards to be followed by the County Welfare Boards and Human Service Boards in discharging the Commissioner's responsibility for children under state guardianship as dependent/neglected.

The rules listed below would establish standards for the administration and delivery of the following services by County Welfare Boards and Human Service Boards:

Rule 200 - Adoption
Rule 210 - Counseling Services for Families and Individuals
Rule 211 - Educational Assistance
Rule 212 - Housing Services
Rule 213 - Information and Referral Services
Rule 214 - Legal Services
Rule 215 - Money Management Services
Rule 216 - Residential Treatment Service
Rule 217 - Social and Recreational Services
Rule 218 - Transportation Services

Copies of the proposed rules are now available and one free copy may be obtained by writing Ruth Yaeger, Department of Public Welfare, Social Services Division, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 393.07. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with

public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone 612-296-5615.

Very truly yours,

VERA J. LIKINS, Commissioner

dated: April 15, 1977

DPW Ex. 3

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

CERTIFICATE OF DELIVERY
SECRETARY OF
STATE'S LIST

I hereby certify that the attached 506 labels & one sheets

constitute the complete list of persons, associations, and other interested groups who as of 2:00 o'clock P. M., this 5th day of May, 1977, have requested pursuant to M.S. 1976 Sec. 15.0412

that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By Cecil Dixon

DPW Ex. 4

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

S. A. Wilford, being duly sworn on oath deposes and says:

1) That she is an employee of the Special Services Division, Department of Public Welfare of the State of Minnesota.

2) That on the 5th day of May, 1977, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who has registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M. S. 15.0412.

3) That on the 5th day of May 1977, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Susan A. Wilford

Subscribed to and sworn to before me

this 9 day of May, 1977.

Margaret Holt

DPW Ex. 5

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

AFFIDAVIT OF MAILING

S. A. Wilford, being first duly sworn, deposes and says:

That on the 6th day of May, 1977, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Susan A. Wilford

Subscribed and sworn to before
me this 9 day of
May, 1977

Margaret Holt



DPW Ex. 6

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION
OF RULES OF THE DEPARTMENT OF PUBLIC
WELFARE GOVERNING SOCIAL SERVICES,
RULES NUMBER 171, 200, 210, 211, 212,
213, 214, 215, 216, 217 and 218.

STATEMENT OF NEED

The above-captioned rules are new proposed rules of the Department of Public Welfare.

Proposed Rule 171 identifies and governs the administration of agency responsibilities for children under state guardianship as dependent or neglected.

This rule is promulgated pursuant to M.S. 393.07 which charges the Minnesota Commissioner of Public Welfare with the care and protection of children found to be dependent or neglected and with the duty to establish regulations for the care and support for children under state guardianship.

The section entitled "B. Definitions" is necessary to identify those agencies delegated certain duties to carry out the responsibilities of the Commissioner of Public Welfare as guardian.

The section entitled "C. General Responsibilities, 1., 4., and 5." assigns primary social service and financial responsibilities to a single agency rather than assuming the two responsibilities may be with separate agencies. The statement is reasonable because when separate agencies are responsible, decisions regarding the welfare of children fail to be made and children have a tendency to get lost in the system.

The section entitled "C. General Responsibilities, 2." assures timely notice the Commissioner of Public Welfare has been appointed guardian of a child. It is reasonable to expect that a 30-day time period is adequate to complete notification procedures so that the Commissioner can assume major decision-making authority for the child to prevent a gap in planning for the child.

The section entitled "C. General Responsibilities, 3., 3.a., 3.b., 3.c., 3.d." is necessary to define the extent the plan for a child must provide for the child's individual needs. Children have many needs and it is reasonable to expect agencies to know what those needs are so that the proper agency can provide for them in the absence of a normal parental home.

The section entitled "C. General Responsibilities, 3.e." fulfills M.S. 260.241, Subd. 2(b), permitting the Commissioner of Public Welfare to delegate authorities to county welfare boards. It is, therefore, reasonable not to delegate authorities to private agencies since the law only recognizes the legal responsibility of county welfare boards for children under state guardianship.

The section entitled "C. General Responsibilities, 6., 6.a., 6.b., 6.c." protects the legal interest of a child under state guardianship. The appointment of legal counsel is reasonable because a child's legal interest may be different from the interest of a servicing agency.

The section under "D. Consents" separates the consents authorized by M.S. 260.241, Subd. 2(b) listing those consents it is believed reasonable should remain with the Commissioner of Public Welfare and those consents to be delegated to local social service agencies. This is necessary and reasonable because existing authority in Minnesota law requires the Commissioner's consent for adoption (M.S. 259.24), exportation (M.S. 257.06), and transfer between state hospitals (Chapter 253A). The remaining consents held by the Commissioner of Public Welfare are of such magnitude to the child it is considered appropriate for the Commissioner to directly issue the consents for 2.d. and 2.f. to prevent exploitation of the child, and 2.g. to assure all efforts have been made to keep sibling groups together.

Law empowers the Commissioner to delegate other consents to county welfare boards. Those consents were previously delegated and have been issued at the county level as established practice.

The item "D. Consents, 1.m." is necessary to include those situations where abortion is an alternative, and reasonable because court rulings hold that consent may not be withheld from a minor.

The section under "E. Disposition of the Social Welfare Fund, 1.a." is necessary to make explicit the moment in time when the entire amount held on his behalf in the social welfare fund is to be paid to him.

The section under "F. State Guardianship Benefits Up to Age 21, 1." is necessary to fulfill M.S. 260.40 by establishing for children under state guardianship benefits to age 21.

Proposed Rule 200 is a new rule mandated by Minn. Stat., Chapter 257, Section 175, Minn. Stat., Chapter 393, Section 7, Subd. 2, and Minn. Stat., Chapter 259, which govern the placement and adoption of children as follows:

> Minn. Stat., Chapter 257, provides that persons or agencies placing children for adoption must conform to the rules of the Commissioner and the laws of the state relating to the protection of children in foster care;
>
> Section 7, Subd. 2 of Minn. Stat., Chapter 393, states that the county welfare board, under the supervision of the Commissioner, shall administer the child welfare program in accordance with the standards, rules, and regulation promulgated by the Commissioner and shall act as an agent of the Commissioner in the placement of his wards in adoptive homes;
>
> Minn. Stat., Chapter 259, sets forth the responsibilities of the Commissioner and the local social service agencies in the adoption of children.

Section A. 2., entitled "Definitions", is necessary and reasonable because it defines the terms used throughout this rule.

Section B., "Legally Freeing the Child for Adoption", is necessary as it provides the basis upon which an agency can determine that the child is a proper subject for adoption. The provisions of this section are reasonable because adoptions should be legally valid and immune from attack.

Section C., "Service to Children Freed for Adoption", establishes standards by which the local social service agency secures for the child a suitable adoptive home and provides safeguards to both the child and family in the event a child must be removed from the home. These provisions are reasonable and necessary to ensure for the child a permanent family of his own without subjecting him to unnecessary moves or delays in an adoptive placement.

Section D., "Services to Children in Independent Placements", provides the basic standards needed to protect the child in a nonagency adoptive placement plan. Because the child is often not the primary client and his placement often arranged by unlicensed parties, these standards are both reasonable and necessary.

The provisions of Section E., "Services to Families Applying for Adoption", establish the basis upon which the local social service agency can build an adoption intake policy and develop adoptive home resources for children. These provisions are reasonable and necessary because the preparation of families for adoption must be balanced against the needs of the children available for adoption.

The standards in Section G., "Legalization of the Adoptive Placement", are to ensure that the child's adoptive placement will result in a legally valid adoption. Because the agency assists the petitioners and provides services to the court on their petition, these standards are reasonable and necessary.

Section H., "Post-Adoption Services", provides service standards to meet the client's needs relating to the adoption after legal adoption has occurred. As the needs of the adopted person, genetic parent, or adoptive parent often extend beyond legal acts affecting the movement of a child from his genetic family to an adoptive family, these standards are necessary and reasonable for meeting such needs.

The standards in Section I., "Maintenance of Adoption Records", are to ensure the preservation of information and documents pertinent to the child and his adoption. It is reasonable and necessary to expect the agency responsible for creating a permanent family for a child to also maintain a permanent record by which it accounts for services given and can provide future services, if needed, relative to the adoption.

Proposed Rule 210 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration and provision of counseling services for families and individuals.

The need and authority for Rule 210 is derived from federal regulations contained at 45 CFR 228.26 (1977); Minn. Stat. 393.07, Subd. 1, c, and Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Counseling Services to Families and Individuals as one of the services in Minnesota's social services plan.

Rule 210 establishes some general policies to guide in the delivery of the service.

Section A. 2. provides necessary definitions to make clear that the rule shall only apply to public agencies and to define the service as distinct from counseling which may be offered in connection with other services.

Sections B. 1., 2., and 3. are necessary to satisfy the federal requirement that the services to be provided be described "in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service." The components from which the local agency may choose, as identified in B. 2., are reasonable in that the components listed represent the traditional components of counseling services to families and children. B. 3. is reasonable in that it recognizes that some counties may wish to add other components which meet a need in their particular area. It is necessary that such other components be approved by the Department of Public Welfare to ensure that any added components are consistent with the definition of Counseling Services for Families and Individuals.

Section B. 4. covers court-related activities.

Minn. Stat. 393.07 (1976) requires the local public agencies to perform the functions enumerated in this provision of the rule. As these required functions all involve some form of counseling to individuals and families, it is reasonable that they be identified in this rule as a part of the service, Counseling Services to Families and Individuals.

Proposed Rule 211 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration and provision of educational assistance services.

The need and authority for Rule 211 is derived from federal regulations contained at 45 CFR 228.26 (1977); Minn. Stat. 393.07, Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Educational Assistance Services as one of the services in Minnesota's social services plan.

This rule establishes some general policies to guide in the delivery of the service.

Section A. 2. provides the necessary definitions to make clear that the rule shall apply only to public agencies and to define the service.

Sections B. 1., 2., and 3. allow for a variety of options in the delivery of this service. Section B. 1. is necessary to satisfy the federal requirement that the services to be provided be described "in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service." Because this service is in a developmental stage, the provision is made for agencies to offer additional options as the need arises and as they gain experience in the delivery of this service. The options identified in Section B. 2. are reasonable in that these options reflect the current activities of local social service agencies providing this service. The requirement in Section B. 3. is necessary to ensure that such other components of this service which the local social service agency may wish to provide are consistent with the definition of Educational Assistance Services.

Proposed Rule 212 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration and provision of housing services by the local social service agency.

The need and authority for Rule 212 is derived from federal regulations contained at 45 CFR 228.26 (1977); Minn. Stat. 393.07, Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Housing Services as one of the services in Minnesota's social services plan.

The rule establishes some general policies to guide in the delivery of the service.

Section A. 2. provides the definitions necessary to make clear that the rule shall only apply to public agencies and to define the service.

Section B. 1. is necessary to satisfy the federal requirement that the services to be provided be described "in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service."

Sections B. 2. and 3. allow for a variety of options in the delivery of this service. The options identified are reasonable in that these options reflect the current activities of local social service agencies providing this service. Because this service is in the developmental stage, the provision is made for agencies to offer additional options as the need arises and as they gain experience in the delivery of this service. The requirement in Section B. 3. is necessary to ensure that such other components of this service which the local social service agency may wish to provide are consistent with the definition of Housing Services.

Proposed Rule 213 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration and provision of information and referral services by the local social service agency.

The need and authority for Rule 213 is derived from federal regulations contained at 45 CFR 228.26, 228.60(f)(2)(iii), and 228.64 (1977); Minn. Stat. 393.07, Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Information and Referral Services as one of the services in Minnesota's social services plan.

Section A. provides the necessary definitions to make clear that the rule shall apply only to public agencies and to define the various components of Information and Referral Services.

Section B. 1. is necessary and reasonable in that it may not be feasible for smaller agencies to provide Information and Referral as a separate and discrete service.

Section B. 2. is necessary to satisfy the federal requirement that the services to be provided be described "in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service."

Section B. 3. is necessary to establish the criteria for Information and Referral as a discrete service. The specific requirements contained in 3. a. and b. are reasonable in that they are essential to public recognition of Information and Referral as a separate and discrete service. Section 3. c. is specifically required by federal regulation if the agency wishes to finance the provision of Information and Referral with Title XX Social Service Funds.

Section B. 4. is necessary and reasonable in order to ensure that the agency is aware of community resources and to ensure that information provided is accurate and that referrals made are proper referrals.

Sections B. 5. and 6. are necessary to identify the components of Information and Referral Service.

Sections B. 7. and 9. are necessary and reasonable to provide accountability for Information and Referral activities and to be able to identify community need for additional resources.

Section B. 8. is necessary and reasonable to protect the privacy rights of those using Information and Referral Services.

Proposed Rule 214 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration and provision of legal services by the local social service agency.

The need and authority for Rule 214 is derived from federal regulations contained at 45 CFR 228.26 (1977); Minn. Stat. 393.07, Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Legal Services as one of the services in Minnesota's social services plan.

The rule establishes some general policies to guide in the delivery of this service.

Section A. 2. provides the necessary definitions to make clear that the rule shall apply only to public agencies and to define the service.

Section B. 1. is necessary to satisfy the federal requirement that the services to be provided be described "in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service."

Sections B. 2. and 3. allow for a variety of options in the delivery of this service. The options identified in Section B. 2. are reasonable in that these options reflect the kinds of situations in which local social service agencies providing this service currently provide legal help. Because this service is in the developmental stage, the provision is made for agencies to offer additional options as the need arises and as they gain experience in the delivery of this service. The requirement in Section B. 3. is necessary to ensure that such other components which the local social service agency may wish to provide are consistent with the definition of Legal Services.

Proposed Rule 215 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration of money management services by the local social service agency.

The need and authority for Rule 215 is derived from federal regulations contained at 45 CFR 228.26 (1977); Minn. Stat. 393.07, Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Money Management Services as one of the services in Minnesota's social services plan.

The rule establishes some general policies to guide in the delivery of this service.

Section A. provides the necessary definitions to make clear that the rule shall apply only to public agencies, to define the service and to define the various possible components of Money Management Services.

Section B. 1. is necessary to satisfy the federal requirement that the services to be provided be described "in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service."

Sections B. 2. and 3. allow for a variety of options in the delivery of this service. The options identified in Section B. 2. are reasonable in that these options reflect the current activities of local social service agencies providing this service. Because this service is in the developmental stage, the provision is made for agencies to offer additional options as the need arises and as they gain experience in the delivery of this service. The requirement in Section B. 3. is necessary to ensure that such other components which the local social service agency may wish to provide are consistent with the definition of Money Management Services.

Section C. is necessary to make social service policy concerning the use of protective and vendor payments consistent with income maintenance policies as established in federal AFDC regulations and Minn. Rule DPW 44 which governs the provision of AFDC.

Proposed Rule 216 is a new administrative rule of the Minnesota Department of Public Welfare.

Rule 216 governs the administration and provision of residential treatment service by local social service agencies to individuals placed in residential facilities.

Rule 216 is being promulgated because of the need to establish standards which will ensure that clients of the local social service agencies of Minnesota who require a therapeutic or developmental experience in a residential facility will be provided quality services. It is also intended to ensure that when these clients are discharged from the residential facility, they will be provided whatever assistance they may need to prevent their return to a facility. The following statutes require the Commissioner to provide residential treatment services:

> Minnesota Statutes 256.01, Subd. 2, (1), assigns responsibility to the Commissioner of Public Welfare for the administration and supervision of welfare activities or services as may from time to time be vested in the Commissioner.
>
> Minnesota Statutes 256.01, Subd. 2, (2), assigns responsibility to the Commissioner of Public Welfare for the administration and supervision of all child welfare activities, including the care of children in foster homes or in private institutions and the supervision of child-caring and child-placing agencies and institutions.
>
> The Minnesota Hospitalization and Commitment Act, Minnesota Statutes 253A.01-253A.21 assigns responsibility to the Welfare Department for services to mentally ill persons, inebriate persons and mentally deficient persons.
>
> Minnesota Statutes 256.01, Subd. 2, (5), requires the Commissioner of Public Welfare to cooperate with the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of any functions of the Commissioner.

In addition to the above statutes, DPW Rule 160 establishes Residential Treatment Services as one of the services in Minnesota's Comprehensive Social Service Plan. This rule is necessary to define this particular service.

Standard A. 2. entitled "Definitions" is necessary in order to give definition to the types of facilities governed by this rule.

Standard B. 1. is necessary because it ensures that clients will be placed only in facilities which meet their individual needs and which are licensed or certified by the Department of Public Welfare, Health or Corrections.

In the case of out-of-state facilities, it is reasonable to expect the Department of Public Welfare to assume the responsibility for examining the standards of other states to ascertain the comparability of these to Minnesota. It is necessary to require comparable standards in order to ensure that the individual needs of clients placed outside the state will be adequately met.

Standard B. 2. is necessary to ensure that the basis for selection of a facility for a client has to do with, primarily, whether the facility can meet the client's individual needs rather than with such other considerations as cost or pressures from family or friends of the client. It is also believed necessary and reasonable to allow a client the dignity of exercising his/her choice when more than one approved vendor is available.

Standard B. 3. is necessary to ensure that the facility is provided the information it needs in order to provide appropriate care and treatment to the client.

Standard B. 4. is necessary because it ensures that the efforts of the various agencies are coordinated so that there is continuity of care provided to the client before, during and following placement.

Standard B. 5. is necessary because the written agreement ensures that the agency and facility have a clear understanding of their respective roles and responsibilities.

Standard B. 6. is necessary to ensure that a client requiring a residential facility is provided services by the local agency. This section gives definition to the services that the local social service agency is expected to provide. It is necessary and reasonable that these services include help with determination of need for the facility, selection of a facility, adjustment to the facility and help with practical problems such as retention of housing while in the facility.

Standard B. 7. is necessary to ensure that a client is provided services during and following his/her stay in the residential facility. While the local agency is responsible for assuring that the client receives these services, it may be that the facility, the client's family or friends, or some other agency or person has agreed to provide the services. As in Standard B. 6., this section gives definition to services expected to be provided. It is necessary and reasonable that these services include help with maintaining family and community ties, utilization of community resources, meeting medical and dental needs, utilization of supportive services, with any move the client may make and with following through on the post-discharge plan.

Proposed Rule 217 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration and provision of social and recreational services by the local social service agency.

The need and authority for Rule 217 is derived from federal regulations contained at 45 CFR 228.26 (1977); Minn. Stat. 393.07, Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Social and Recreational Services as one of the services in Minnesota's social services plan.

The rule establishes some general policies to guide in the delivery of this service.

Section A. provides the necessary definitions to make clear that the rule shall apply only to public agencies and to define the service.

Sections B. 2. and 3. allow for a variety of options in the delivery of this service. The options identified in Section B. 2. are reasonable in that these options reflect the current activities of local social service agencies providing this service. Because this service is in the developmental stage, the provision is made for agencies to offer additional options as the need arises and as they gain experience in the delivery of this service. The requirement in Section B. 3. is necessary to ensure that such other components which the local social service agency may wish to provide are consistent with the definition of Social and Recreational Services.

Proposed Rule 218 is a new administrative rule of the Minnesota Department of Public Welfare which governs the administration and provision of transportation services by the local social service agency.

The need and authority for Rule 218 is derived from federal regulations contained at 45 CFR 228.26 (1977); Minn. Stat. 393.07, Subd. 2 (1976); and Minn. Rule DPW 160 which identifies Transportation Services as one of the services in Minnesota's social services plan.

The rule establishes some general policies to guide in the delivery of this service.

Section A. provides the necessary definitions to make clear that the rule shall apply only to public agencies and define the service.

Section B. 1. is necessary to satisfy the federal requirement that the services to be provided be described "in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service."

Sections B. 2. and 3. allow for a variety of options in the delivery of this service. The options identified in Section B. 2. are reasonable in that these options reflect the current activities of local social service agencies providing this service. Because this service is in the developmental stage, the provision is made for agencies to offer additional options as the need arises and as they gain experience in the delivery of this service. The requirement in B. 3. is necessary to ensure that such other components which the local social service agency may wish to provide are consistent with the definition of Transportation Services.

B. 4. is necessary so that people using Transportation Services are assured of responsible drivers and carriers.

COMMISSIONER OF PUBLIC WELFARE

Dated: 5-13-77

by Vera J. Likins

DPW Ex. 7

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES, RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104 and in support thereof the Minnesota Department of Public Welfare will introduce the following evidence:

Rule 171

Ronald Mosman, Social Service Section, Department of Public Welfare, will present testimony summarizing the need for the proposed rule and explaining some parts of the proposed rule.

We will be citing the following statutes:
Minnesota Statute 260.241 Subd. 2(b)
Minnesota Statute 256.91
Minnesota Statute 260.40

Rule 200

Ruth C. Weidell, Supervisor, Adoption Unit, Minnesota Department of Public Welfare, will tetify summarizing the need for the proposed rule and explaining some parts of the proposed rule.

We will be citing the following statutes:
Minnesota Statute 393.07
Minnesota Statute 245
Minnesota Statute 257
Minnesota Statute 259

Rules 210, 211, 212, 214, 215, 217, 218

Dwaine R. Lindberg, Division of Social Services, Minnesota Department of Public Welfare, will testify summarizing the need for the proposed rules and explaining some parts of the proposed rules.

We will be citing the following statutes, rules and federal regulations:
Minnesota Statutes 393.07
Minnesota DPW Rule 160
45 Code of Federal Regulations 228.26

Rule 213

Dwaine R. Lindberg, Division of Social Services, Minnesota Department of Public Welfare, will testify summarizing the need for the proposed rules and explaining some parts of the proposed rules.

Rule 213, cont.

We will be citing the following statutes, rules, and federal regulations:
Minnesota Statutes 393.07
Minnesota Statutes 228.60 (f) (2)
Minnesota Statutes 228.64
Minnesota DPW Rule 160
45 Code of Federal Regulations 228.26

Rule 216

Zetta Feder, Out-of-Home Services Consultant, Service Development Section, Minnesota Department of Public Welfare, will testify summarizing the need for the proposed rule and explaining some parts of the proposed rule.

We will be citing the following Statutes:
Minnesota Statute 256.01, Subd. 2(1)
Minnesota Statute 256.01, Subd. 2(2)
Minnesota Statute 256.01, Subd. 2(5)

VERA J. LIKINS, Commissioner
Minnesota Department of Public Welfare

Dated: May 13, 1977

DPW-77-0[redacted]-PE

Exhibit A

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. ERickson at 9:15 a.m. on Friday, June 10, 1977 in Conference Room D, Veterans Service Building, St. Paul, Minnesota.

Barbara Gill, Special Assistant Attorney General, Fourth Floor Centennial Building, St. Paul, Minnesota 55155, appeared as counsel on behalf of the Department of Public Welfare. Zetta Feder, Ruth Weidell, Dwaine Lindberg, and Ron Mosnan testified on behalf of the Department. The hearing continued until all interested groups or persons had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall also clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Department shall be responsible for filing the rules with the Attorney General.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On May 6, 1977, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On May 2, 1977, a Notice of Hearing and a copy of the proposed rules were published at 1 State Register 1563.

3. On May 6,1977, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On May 13, 1977, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need; and
(g) The Statement of Evidence, including the names of witnesses to be called;
(h) The names of Department personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through June 30, 1977 for the receipt of written comments and statements.

PROPOSED RULE DPW 171 - CHILDREN UNDER STATE GUARDIANSHIP

6. Proposed Rule 171 is necessary to comply with M.S. 393.07. The statute charges the Minnesota Commissioner of Public Welfare with the care and protection of children found to be dependent or neglected, and authorizes the Commissioner to promulgate rules for the care and support of children under state guardianship. No objections to the substantive content of the Rule were made at the hearing or in written comments.

7. Section C of Proposed Rule 171 outlines the general responsibilities of welfare agencies towards children under state guardianship.

a. In C. 3.b., the Minnesota Department of Health has proposed substitution of the word health for the word "physical".

b. The Hearing Examiner finds C.3.d. to be somewhat unclear. At the hearing, Mr. Mosnan testified that some children function well under an agency plan which allows them to be independent. Section d. as written does not communicate that only some plans will stress child independence. The following amendment would clarify the intent:

> C.3.d. ~~The plan permitting~~ Any plan which permits a child to assume responsibility to meet his own needs without agency guidance shall not preclude agency responsibility to be aware of the child's needs and provide for them if necessary.

c. Section C.3.e. is supported by additional statutory authroity from M.S. 260.241, Subd. 2 (b), which permits the Commissioner to delegate authority to county welfare boards.

8. Section D. separates the consents authorized under M.S. 260.241 into those which should remain with the Commissioner and those which should be delegated to local social service agencies. Certain consents remain with the Commissioner by statute: adoption (M.S. 259.24), exportation (M.S. 257.06), and transfer between state hospitals (Chapter 253A). Since these statutes leave the most important consents with the Commissioner, it is reasonable to leave other consents of equal importance with the Commissioner.

a. For the sake of clarity, the Department of Public Welfare recommends the following changes in Section D. of Proposed Rule 171:

> D.1.c. Petition for change of name.
>
> D.1.e. Application for driver's license.
>
> D.1.i. Application for marriage license.
>
> D.1.h. Request for tuition waiver.
>
> D.1.p. Petition to transfer ~~of~~ guardianship.

9. At the hearing, the Hearing Examiner noted a possible ambiguity in Section F.1. The following amendment would clarify the section:

> An individual who ~~was~~ is under state guardianship at age 18 ~~is~~ continues to be eligible for guardianship benefits up to age 21 at the request of the individual.

10. Subsequent to the hearing, the Ramsey County Welfare Department submitted several questions as to the meaning of Proposed Rule 171. The Department of Welfare should consider the questions before final adoption of these proposed Rules.

PROPOSED RULE DPW 200 - ADOPTION

11. Statutory authority for proposed Rule 200 is found in several Minnesota Statutes. Minn. Stat., Chapter 257, provides that persons or agencies placing children for adoption must conform to the rules of the Commissioner and the laws of the state relating to the protection of children in foster care. Minn. Stat., Chapter 259, sets forth the responsibilities of the Commissioner and the local social service agencies in the adoption of children. Minn. Stat. § 393.07, Subd. 2, states that the county welfare board under the supervision of the Commissioner, shall administer the child welfare program in accordance with the standards, rules, and regulations promulgated by the Commissioner and shall act as an agent of the Commissioner in the placement of his wards in adoptive homes.

12. At the hearing, the Department of Public Welfare proposed several minor changes in the language of DPW 200.

a. The following change is proposed to make the Rule more consistent with a recently-enacted amendment to M.S. 259.24, subd. 5, contained in Chapter 126 of the 1977 Session laws.

> B.3. All surrenders and consents to adoption (except those given by the Commissioner, his agent or a licensed child-placing agency) shall be executed before two competent witnesses and an agency representative, and shall be filed in court prior to the date of the hearing. However, consents to an adoption by the child's parent when that parent is either a co-petitioner in the adoption proceeding or does not have custody of the child need not be executed before an agency representative, but only before two competent witnesses. Consents obtained in another state may be executed according to either Minnesota law or applicable laws of the other state.

b. In the interest of clarity, the Department proposes the following change in C.1.:

> C.1. State adoption exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the Commissioner. This provision shall not apply to the licensed child-placing agencies, Hennepin, Ramsey, or St. Louis Counties, whose use of the exchange is optional.

c. The Department also proposes a clarifying amendment to E.3.:

> E.3. The local social service agency is responsible for determining the suitability of those adoptive parents whom it has accepted for service.

13. The Foster Parents Association, 4400 Normandale Highlands Drive, Bloomington, Minnesota 55431, submitted a statement of concerns for the Examiner's consideration. The following discussion is a summary of those concerns, and the response of the Department of Public Welfare.

a. The Foster Parents Association proposes the following changes in Section C.1.:

> The wording "To ensure each child's placement in an adoptive home preferably away from his area of prior residence..." should be changed to read "When it is necsssary for the child to be placed in an adoptive home away from his area of prior residence..."

This recognizes the need to, at times, place a child outside his locality, without insisting that it be done in each case. Every effort should be made to reduce the number of placements. This is obviously good child-care practice. In those instances where the foster parents are prospective adoptive parents a statement such as the original might preclude an agency from continuing the placement. Further, while it may be that one of the major reasons for this statement could be the continued residence in the area of natural parents, it is also true that in many cases in foster care the natural parents have chosen to move. The preference for moving the child might then not exist. Finally, the ambiguity of the wording "area of prior residence" is troublesome. This could lead to varying interpretations by agencies throughout the State.

b. The Department finds the present wording of Section C.1. appropriate. First, the Department feels the suggested wording would change the mandatory requirement that the local social service agency must use the State Adoption Exchange. Second, it is preferable to place a child away from his area of prior residence, in order to provide an opportunity for the child to grow up in an adoptive home without interference from genetic relatives. Third, the Department defines "area of prior residence" as including any of the child's previous places of residence before his adoptive placement.

c. The Association proposes the following change in Section C.a.:

> The word may in the first line should be changed to shall. Sections 2.a. (1) and (3) describe a successful foster placement. The wording change would discourage moving of children when it would be neither necessary nor desirable.

d. At the hearing, the Department expressed identical concerns regarding unnecessary or undesirable moves for children. The Department finds the word "may" in C.2. adequate to express these concerns.

e. In regard to C.2.a., the Association suggests the following change:

> - The wording should be changed to read "When any of the following criteria are met, the foster home, if agreeable, shall be the prime adoptive home."

As argued earlier, continuation of a good placement makes sense.

f. The Department finds the present wording in C.2.a. necessary to outline the criteria for recommending a foster home as an adoptive home.

g. The Association expressed a concern with respect to the clarity and consistency of C.4.: The Association views this paragraph as very important. There does appear to be a lack of consistency between the wording here and the definition in Section A.2.o., p. 2. We feel the definition should encompass the sibling group and the prospective family's financial limitations as well.

h. In the opinion of the Department, the Association's point regarding C.4. was well taken. The Department recommends moving the parentheses in order to change the emphasis in C.4.:

> C.4. Subsidized adoptions. Subsidized adoption is available through the local social service agency for a child under state guardianship who is not readily adoptable because of special needs (due to age, race, physical, mental, or emotional conditions~~)~~ or his membership in a sibling group) and whose prospective family is unable to adopt him due to financial limitations.

In addition, the Department proposes a clarifying amendment to A.2.o.:

> A.2.o. Subsidized adoption. An adoptive placement in which a contract provides that financial reimbursements will be made to the adoptive parents with financial needs for a child who has special needs.

i. The next suggestion of the Association concerns Section C.4.c. (4): The Association is aware that some families are "scared" to adopt, even if subsidized, because of warnings that agencies may choose to discontinue the subsidy. This section does little to alleviate those fears. The vagueness of such wording as "significant changes" is frightening. We strongly urge the substitution of the following wording:

> "(4) The adoptive parents will annually submit to the subsidizing county welfare or human service board a sworn statement that the child is presently in their custody and that the condition(s) that caused the child to be eligible for subsidy continue(s) to exist.
>
> (a) Upon sworn certification by the parents, the agreement shall be automatically renewed.
>
> (b) As long as the need for subsidy is certified, the subsidy shall be continued while the child is the legal dependent of the adoptive parents.
>
> (c) If the parents certify that the child's circumstances have changed, the agreement may be modified to allow for increase, reduction, or termination while the child is in the adoptive parents' custody."

j. The Department considers C.4.c.(4) to be consistent with M.S. 393.07, subd. 1a, which mandates that financial allotments to adoptive parents be subject to modification based on changes in the child's needs and the parents' financial resources. However, the Department suggests the following amendment to clarify the section:

> C.4.c. (4) The contract shall be reviewed annually by the subsidizing county welfare or human service board to determine whether significant changes have occurred in the needs of the child or the financial resources of the parents which require amendment of the contract.

k. Next, the Association suggests that Section C.4.c. (5) can be stricken if the amendment proposed in Finding of Fact 13.i. is made.

l. The Department replies that Section C.4.c. (5) states a right of the adoptive parents to appeal under Minn. Stat. Ch. 15 where public monies are paid. Therefore, the statement in the proposed rule cannot be eliminated as recommended by the Minnesota Foster Parent Association.

m. The Association proposed an addition to Section C.4.e.(1) (c): The Association recognizes that there is an ongoing need to identify potential adoptive homes, and that the media may provide an avenue for doing this. There is a certain repulsiveness to the notion, however, if this should be interpreted by an agency as a means of avoiding a subsidy. The situation ought not to arise where the question is posed as to where the greater benefit to a child is; in a home with money or in a home where he has been integrated into the family but where funds are insufficient. The addition of "if not currently in an agreeable foster home" could relieve the harshness of this section.

n. In reply, the Department emphasizes the fact that M.S. 393.07, subd. 1.a. allows rather than mandates financial allotments to adoptive parents. Moreover, it is reasonable for the local service agency to develop all possible adoptive resources. Developing these resources does not preclude the agency from considering the current foster home as an adoptive home. Therefore, the Department favors the present language in C.4.e.(1) (c).

o. In reference to Section C.6.a. (3), the Association said: The Association is concerned by the fact that two years may be too long. It might be useful to add wording to the effect that an annual review of each adoptive placement will be accomplished.

p. In reply, the Department cited M.S. 245.791 (4), which requires the adoptive home to be licensed for foster care if legal adoption has not occurred within two years of placement. Therefore, the two year time period in C.6.a. (3) is necessary.

q. The Association expressed the following concern regarding Section E: While we are unclear of the jurisdiction involved, we are aware that Title XX mandates a fee for service from

adoptive parents above a certain income level. This requirement can have the effect of workers reducing needed contact time with adoptive parents so as to reduce the fee. There is also an additional paperwork burden placed upon them. If there is any way to alter this process through this rule, we would urge that it be done.

r. According to the Department, the Association's concern is not pertinent to Section E. First, no Title XX social service case can be set up on a family until a child is available for placement in that home. Second, it is optional for the local social service agency to charge a fee for home studies.

s. With respect to Section G.1., the Association said: The Association would suggest the additional wording:

> "No jurisdiction shall require adoptive parents to hire an attorney for the purpose of filing the petition."

The present wording may already say that. We feel it is necessary to make it stronger. In some jurisdictions, the retention of legal assistance is a pre-requisite to adoption. We feel that with little additional help from placing agencies, this additional financial burden could be removed in many cases.

t. The Department explained that any requirement that petitioners in an adoption proceeding be represented by counsel is a matter within the discretion of the court. The Department, therefore, has no jurisdiction to determine this issue in Section G.1.

u. Lastly, the Association proposes the following amendment to Section I.2.: We suggest the following additional wording to this section:

> "When the adopted person reaches the age of majority he/she should have access to pertinent data concerning his/her history, if so desired."

This is consistent with research which argues the need for some adopted people to find genetic relatives.

v. The Department replied that the Association's amendment to I.2. would contravene M.S. 259.27, subd. 3, and M.S. 259.31, which make adoption records confidential. The records are only accessible to persons other than the Commissioner and his representative by court order.

14. a. The Minnesota Governor's Planning Council on Developmental Disabilities expressed concern that E.3.b. (1) and E.3.b. (2) may be contradictory.

b. According to the Department, E.3.b. (1) refers to review by the local agency, the welfare or human services board, or the state agency. The intent of E.3.b. (2) is to distinguish such review from statutory review procedures under M.S. Chapter 15. To clarify this purpose, the Department recommends the following amendment:

> E.3.b.(2) Grievances arising out of adverse suitability studies are not subject to ~~further~~ administrative review pursuant to Minn. Stat. Ch. 15 or Minn. Stat. 256.045.

15. The Minnesota Department of Health proposed the following changes in Proposed Rule DPW 200:

> P. 2, A., 2., p: Suitability Study: The pre-adoption counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational, and health needs of a particular child.
>
> P. 4., C., 1., a:
> The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs includ sibiling ties, racial or religious heritage, ~~physical or~~ and health, social and educational needs.
>
> Addition:
> P. 4., C., 1., c:
> The local social service agency shall provide for a medical assessment of the child's health needs.
>
> P. 5., C., 2., a., (1):
> The child has special needs (~~physical, mental or emetional~~) (physical and mental health, education, and social) which the foster family will be able to adequately meet.
>
> P. 6., C., 3., a., (2):
> The child's social worker shall provide the adoptive parents with a written genetic and ~~medical~~ health history of the child in which all identifying information on the child's relatives has been omitted. The health history shall be based on a medical assessment of the child's health needs which has been conducted within the past six months.
>
> P. 7., C., 4., b:
> The amount of a ~~medical~~ health subsidy shall include the estimated cost for medical and health care, treatment and/or therapy.
>
> P. 13, E., 2., a:
> The applicant must be primarily motivated to meet the child's needs, emotionally mature with health interpersonal relationships, in good physical and mental health, and able to adequately support and parent a child in a healthy and emotionally secure environment.

PROPOSED RULE DPW 210 - COUNSELING SERVICES FOR FAMILIES AND INDIVIDUALS

16. Statutory authority for Proposed Rule 210 is found in federal regulations contained at 45 CFR 228.26 (1977) and Minn. Stat. 393.07, Subd. 1, d, and Subd. 2 (1976).

17. At hearing, Jack Huus, from Olmsted County Social Service Department in Rochester, Minnesota, questioned the need for Proposed Rule 210. Mr. Huus maintained that counseling is done as an adjunct to other services, and, therefore, is covered by already existing DPW Rules.

18. The Department responded that Rule 210 is necessary and not redundant. The purpose of Rule 210 is to regulate counseling which helps individuals and families deal with intra- or interpersonal relationships (e.g. marriage counseling). These counseling services are identified as part of Minnesota's social service plan in Minn. Rule DPW 160, but are not defined or regulated in any current DPW Rules.

PROPOSED RULE DPW 211 - EDUCATIONAL ASSISTANCE

19. The need and authority for Rule 211 is derived from federal regulations contained at 45 CFR 228.26 (1977) and Minn. Stat. 393.07, Subd. 2 (1976).

20. The Minnesota Department of Health proposes amending Section B.2.d. as follows:

> Assisting physically handicapped to obtain appropriate educational and training opportunities and health education specific to their particular disability.

PROPOSED RULE DPW 212 - HOUSING SERVICES

21. Statutory authority for Rule 211 is contained in federal regulations at 45 CFR 228.26 (1977); and Minn. Stat. 393.07, Subd. 2 (1976).

22. The following amendment to Section B.2.e. is proposed by the Minnesota Department of Health:

> Assistance in ~~maintaining-or-enforcing-or-improving housing-codes~~.
>
> Assistance in providing referrals to proper local housing codes enforcement agency.

PROPOSED RULE DPW 213 - INFORMATION AND REFERRAL SERVICES

23. The authority for Rule 213 is derived from federal regulations contained at 45 CFR 228.26, 228.60 (f) (2) (iii), and 228.64 (1977) and Minn. Stat. 393.07, Subd. 2 (1976).

24. At hearing, Jack Huus, from Olmsted County Social Service Department in Rochester, Minnesota suggested a clarification in Section B.1. Mr. Huus wanted Rule 213 to clearly state that a county welfare agency may provide information and referral services from within its own staff or purchase outside INR services or both. The Department agreed with Mr. Huus and recommended the following clarifying change in Section B.1.:

> B.1. Information and referral may be provided as a separate and discrete service and/or as a function of the intake service of the agency.

25. Mr. Huus also asked if the "follow up" referred to in B.5.c. needed to be done in all cases, or only in a sample number of cases. The Department had no objections to follow up on a sample basis, and, therefore, proposed the following clarifying language:

> B.5.c. Follow up on at least a sample of referrals.

26. At the hearing, John Evans presented the position of the Minnesota Information and Referral Alliance (MIRA) with respect to Proposed Rule 213. In essence MIRA urges that information and referral be maintained as a separate and discrete service. In addition, MIRA urges the Department to adopt strict standards for information and referral services. The MIRA position was supported at the hearing by Marjorie Carpenter, Director of the Information Referral Service in Minneapolis, and Wayne Schut, from the Information and Volunteer Center in Olmsted County. The Hearing Examiner also received letters in support of the MIRA position from: Phyllis Acker, Executive Director of the Information and Volunteer Center of Olmsted County, Inc.; Don W. Hrdian, Family and Marriage Counselor from the Family Consultation Center, Rochester, Minnesota; Janice Jones, Executive Director of Volunteers for Community Service, Fargo, North Dakota (an information and referral service serving Clay County in Minnesota); Sandra Munt, Director of Goodhue County Information and Volunteer Action Center, Inc.; Carol Fix Gagner, Executive Director of Information and Referral Services of Blue Earth County, Inc.; and Becky R. Engel, Coordinator of Information and Referral Service of Southwestern Minnesota, Inc.

27. The Department recognized the merits of the standards suggested by MIRA, as well as the advantages of having information and referral as a separate service. However, the Department also considered the practical consequences of the MIRA proposals. Federal funding is available for information and referral services. At the present time, many small welfare agencies are providing information and referral as a part of other services. If the small agencies are not allowed to categorize the INR done by staff members as "information and referral", the agencies will lose needed funding. Mr. Jack Huus from the Olmsted County Social Service Department in Rochester, Minnesota, testified that staff members do provide information and referral. Mr. Allen Sigafus of Blue Earth County Human Service Center in Mankato, Minnesota, testified that small county agencies do need federal funding and do provide INR services. After considering both the MIRA position and the position of small welfare agencies, the Department drafted Proposed Rule 213 as a balancing approach between the two positions.

28. As a specific example of the stricter standards proposed by the Minnesota Information and Referral Alliance, John Evans cited Section B.9. of Proposed Rule 213. He suggested that B.9., which allows the agency to present summary data to community groups and state planning agencies, be made mandatory.

29. While the Department feels it is reasonable to make sharing of summary data permissible, the Department is reluctant to require it. To make the information-sharing of Section B.9. mandatory would necessitate a careful definition of the groups and organizations to which the data must be provided. The Department feels it is unable to undertake the task of defining these groups at the present time.

PROPOSED RULE DPW 214 - LEGAL SERVICES

30. Statutory authority for Proposed Rule 214 can be found in federal regulations at 45 CFR 228.26 (1977) and Minn. Stat. 393.07, Subd. 2 (1976).

31. Dru Osterud, representing Legal Assistance of Ramsey County, 370 Selby Avenue, St. Paul, Minnesota, 55102, made several suggestions with respect to Proposed Rule DPW 214.

a. First, L.A.R.C. recommended the following amendment to Section B.2.6.:

> 2.b. Custody and neglect/dependency/termination and pursuit of rights hearings.

This proposed amendment would cover the full range of issues which may arise in juvenile court.

b. The Department declined to accept the L.A.R.C. suggestion with respect to B.2.6., because the legal services suggested are now provided as a court cost. The inclusion of the suggested services in DPW 214 would shift the costs for these services from the courts to public welfare.

c. Legal Assistance of Ramsey County also recommended the following addition to Section B.2.f.:

> f. Appeals or actions on behalf of clients challenging the actions or laws, rules, regulations or policies of federal, State or local public welfare agencies.

d. The Department agreed with the substance of L.A.R.C.'s proposal regarding B.2.f. However, the Department prefers, in the interest of clarity, to add a new section numbered B.2.h., and leave B.2.f. as drafted:

> B.2.h. Actions on behalf of clients challenging the laws, rules, regulations or policies of federal, state or local public welfare agencies.

e. L.A.R.C. also proposed the addition of a new legal service under Section B.2.:

> h. Employment problems.

L.A.R.C. commented on the proposed addition as follows:

> Clients receiving welfare still have employment problems and this addition recognizes that it is a proper purpose of public welfare agencies to assist people to find employment and to solve employment related problems.

PROPOSED RULE DPW 215 - MONEY MANAGEMENT SERVICES

32. The need and authority for Rule 215 is derived from Federal regulations contained at 45 CFR 228.26 (1977) and Minn. Stat. 393.07, Subd. 2 (1976). Additional statutory authority for Section C. of Proposed Rule 215 is found in federal regulations at 45 CFR 234.60 (1976).

33. a. At the hearing, objections to Section C.9. were raised by Stanley Lahti from the Faribault, Martin, Watonwan Human Services Board, Ninnia Hoel, Director of Social Services for Olmsted County Department of Social Services, and Pat Siuta, Attorney with Legal Aid Society, 501 Park Avenue, Minneapolis, 55415. All three speakers objected to the language of C.9. allowing "placement of children with a relative or in foster care" if money management problems are not resolved after two years of protective/vendor payments. The speakers felt such a drastic step as removal of children from the home would not always be necessary in cases where money management problems continued for more than two years.

b. The Department testified that Section C.9. was included in Rule 215 to comply with federal regulations. Those regulations, found at 45 CFR 234.60 (a) (10) (i) (ii) (1976), state that protective payments will be terminated,

> When it appears that need for protective payments or payments to a person furnishing goods or services will continue or is likely to continue beyond 2 years ... judicial appointment of a guardian or other legal representative will be sought and such payments will terminate when the appointment has been made.

The Department did propose an amendment to C.9. to make the language in Rule 215 correspond more closely to the language of the above federal regulation:

> C.9. In AFDC cases, the local social service agency shall recommend appointment of a guardian or ~~placement of children with a relative or in foster care of~~ other legal representative if money management problems are not resolved after two years of protective vendor payments.

PROPOSED RULE DPW 216 - RESIDENTIAL TREATMENT SERVICE

34. Several Minnesota Statutes require the Commissioner to provide residential treatment service: Minn. Stat. 256.01, Subd. 2, (1), (2), (5), and Minnesota Statutes 253A.01-253A.21.

35. At hearing, the Hearing Examiner noted the ambiguity of the phrase "if indicated" in Sections B.7.c. and B.7.e. The Department responded with the following two amendments to clarify those sections:

> B.7.c. Obtain regular medical and dental evaluation, if ~~indicated~~ needed, carry out any prescribed program of medical care, and arrange for needed funding for such care.

B.7.e. Move to an independent living arrangement on another facility~~, if indicated~~ when such a move is to occur.

36. a. Robert G. Goudge, Director of Lake of the Woods County Social Service Department, drew the Department's attention to Section B.2. Mr. Gouge was concerned that clients allowed to choose a vendor of residential treatment services might make a financially inappropriate choice. He proposed the following amendment:

> 2. "The local social service agency shall base its selection of a residential facility on the facility's capacity to meet the client's individual needs. WHENEVER FINANCIALLY PRACTICAL, when there is more than one approved vendor who could meet the client's needs, the client is to be allowed to select the vendor of his choice."

b. The Department agreed with Mr. Gouge's concern, but proposed different language to express the amendment:

> B.2. The local service agency shall base its selection of a residential facility on the facility's capacity to meet the client's individual needs. When there is more than one approved vendor who could meet the client's needs, ~~the client is to be allowed to select the vendor of his choice.~~ the local agency shall help the client to participate in the selection of the most appropriate facility.

37. a. Four letters from Abbott Hospital, St. Cloud Hospital, St. Mary's Hospital, and Dr. Timothy M. Magee have registered their objections to the private, non-profit community hospital being included in the definition of residential facilities in A.2.b. The letters pointed out that the Minnesota State Legislature passed a bill in the last legislative session excluding private, non-profit community hospitals from being defined as residential facilities in the licensing law, Chapter 25, Laws of 1977. The letters also noted that these hospitals are already closely supervised and regulated by other agencies.

b. The Department declined to exclude private, non-profit hospitals from A.2.b. Rule 216 is not intended to regulate residential facilities themselves, but rather seeks to regulate the local social service agency's responsibilities toward any client who receives 24 hour-a-day care in a facility.

38. a. Mike Marxen, Director of the Traverse County Family Service Department, proposed that an additional paragraph be added to Proposed Rule 216:

"The local social service agency shall indicate in its annual social service plan the components of the service the agency intends to provide."

b. The Department declined to accept the addition proposed in Finding 38.a., because the substance of the amendment is already covered in Minn. Rule DPW 160.

39. The Minnesota Department of Health proposed the following amendments to B.7.b. and B.7.c.:

B.7.b.: Make use of community resources, if appropriate, including social and recreational opportunities.

Make use of community resources, if appropriate, including social, health, and recreational opportunities.

B.7.c.
Obtain regular ~~medical~~ and dental evaluation, if indicated carry out any prescribed program of ~~medical care,~~ and arrange for needed funding for such care.

Obtain regular health and dental evaluation, if indicated, carry out any prescribed program of health care, and arrange for needed funding for such care.

40. The Ramsey County Welfare Department posed a question with respect to B.3.; in the case of child protection, is the "client" the child or the parents? The Ramsey County Welfare Department suggested a specification of who is a client be made in Section B.3.

PROPOSED RULE DPW 217 - SOCIAL AND RECREATIONAL SERVICES

41. Statutory authority for Rule 217 is found in federal regulations at 45 CFR 228.26 (1977) and Minn. Stat. 393.07, Subd. 2 (1976).

42. No objections or suggestions were made with respect to Proposed Rule DPW 217.

PROPOSED RULE DPW 218 - TRANSPORTATION SERVICES

43. Authority for Rule 218 is derived from federal regulations found at 45 CFR 228.26 (1977) and Minn. Stat. 393.07, Subd. 2 (1976).

44. No objections or suggestions were made with respect to Proposed Rule DPW 218.

PROPOSED RULE DPW 212

8. The Examiner concludes that Rule 212 should be adopted as proposed.

PROPOSED RULE DPW 213

9. The Examiner concludes that Proposed Rule 213 be amended as set out in Findings 24 and 25 for the reasons stated therein. The need for and reasonableness of those amendments has been demonstrated.

10. The Minnesota Information and Referral Alliance position, set out in Finding 26, is not without merit. However, the Examiner concludes that the Department position is a reasonable way of balancing opposite interests, as explained in Finding 27.

PROPOSED RULE DPW 214

11. The Examiner concludes that proposed Rule DPW 214 be amended as set out in Finding 31d for the reasons therein. The need for and reasonableness for this amendment has been adequately demonstrated.

12. The proposed amendments of Legal Assistance of Ramsey County, contained in Finding 31e, is overbroad for a Rule pertaining to Legal Services. The amendment may encompass much more than legal services.

PROPOSED RULE DPW 215

13. The Examiner concludes that, to comply with federal regulations, it is reasonable to amend DPW 215 as proposed in Finding 33b.

PROPOSED RULE DPW 216

14. The Examiner concludes that proposed Rule 216 be amended as set out in Findings 35 and 36b, for the reasons contained therein.

15. Since Rule 216, as stated in Finding 37b, is aimed at regulation of the local social service agency, there is no need to exclude private, non-profit hospitals from Section A.2.b., as proposed in Finding 37 a.

PROPOSED RULE DPW 217

16. The Examiner concludes that Rule 217 be adopted as proposed.

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Public Welfare. All other substantive and procedural requirement of statute or rule have been complied with.

2. Pursuant to Minn. Stat. § 15.052, subd. 3 (1976), it is the duty of the Hearing Examiner to: "...(4) make a report on each proposed agency action ... taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

PROPOSED RULE DPW 171

3. The Examiner concludes that proposed DPW 171 be amended as set out in Findings 7b, 8a and 9, for the reasons stated therein. The need for and reasonableness of those amendments has been demonstrated.

PROPOSED RULE DPW 200

4. The Examiner concludes that proposed DPW 200 be amended as set out in Findings 12a, 12b, 12c, 13h, 13j and 14b for the reasons stated therein. The need for and reasonableness of those amendments has been demonstrated.

5. The objections of the Foster Parent Association, set out in Findings 13a, 13c, 13d, 13k, 13m, 13o, 13q, 13s and 13u essentially seek to make the use of the foster home as the adoptive home more frequent. The Department's approach, set out in Findings 13b, 13d, 13f, 13l, 13n, 13p, 13r, 13t and 13v, is more reasonable because it allows the foster home to be the adoptive home if it is in the best interests of the child.

PROPOSED RULE DPW 210

6. As the need for and reasonableness of Rule 210 has been demonstrated in Findings 16 and 18, the Rule should be adopted as proposed.

PROPOSED RULE DPW 211

7. The examiner concludes that Rule 211 should be adopted as proposed.

17. The Examiner concludes that Rule 218 be adopted as proposed.

18. The Examiner has not discussed all proposals for amendment set out in the Findings of Fact. This does not mean, however, that they are without merit. The Department should review all of these proposals prior to final adoption of these Rules.

19. The Examiner concludes that the Department has documented its statutory authority to promulgate the proposed rules.

20. When identifying the statutory authority to promulgate these rules, the Examiner has omitted the references to Minn. Rule DPW 160 which were made in the Statement of Need. A Rule cannot give a Department the authority to promulgate another Rule; the authority must come from a statute.

21. The Examiner concludes that the Department has demonstrated the need for and reasonableness of DPW 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218, as recommended to be amended by this Report, by an affirmative presentation of facts.

22. The Examiner concludes that the amendments he is suggesting to the rules make the rules more reasonable and that none of these amendments constitute a substantial change.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the Department of Public Welfare adopt the proposed rules as recommended to be amended in this Report.

Dated: 7/27/77

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE EDWARD J. DIRKSWAGER, JR.

ACTING COMMISSIONER OF PUBLIC WELFARE

In the Matter of the Proposed Adoption of Rules of the Department of Public Welfare Governing Social Services, Rules Number 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Peter C. Erickson, Hearing Examiner, on June 10, 1977, in Conference Room D, Veterans Building, after proper notice as required by Minn. Stat. § 15.0412, subd. 4 (1977) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

At said hearing the proposed Rules 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218 as published in the State Register were considered. The following persons testified for the Department of Public Welfare: Zetta Feder, Ron Mosman, Ruth Weidell and Dwaine Lindberg. The hearing continued until all interested groups and persons had an opportunity to be heard. Pursuant to order of the Hearing Examiner, the record was held open for twenty (20) days for the submission of written material.

Based upon all the records and proceedings, the Hearing Examiner made Findings of Fact, Conclusions, and Recommendations which are contained in the Report of Hearing Examiner dated July 27, 1977. Said Report is attached hereto as Exhibit A.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1977) said Report was available to all affected persons for at least five (5) days.

Having considered all of the 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 and the reasonableness thereof,

NOW THEREFORE, IT IS ORDERED, that the Findings, Conclusions and Recommendations of the Hearing Examiner as contained in the Report of Hearing Examiner are hereby adopted and incorporated

herein. In addition, the Acting Commissioner makes the following:

FINDINGS OF FACT

1. The Department has reviewed the questions submitted by the Ramsey County Welfare Department regarding Proposed Rule 171 as recommended by the Hearing Examiner in Para. 10 of his Findings. These questions are a proper subject for DPW manual, but require no alteration in the rule.

2. The Department has reviewed the changes to Proposed Rule 200 submitted by the Minnesota Department of Health (MDH) which are contained in Para. 15 of the Findings of Fact of the Hearing Examiner. The changes proposed for sections A.2.p., C.1.a., C.2.a.(1), C.4.b. and E.2.a. are insubstantial changes which add clarity to the rule. The rule has been amended accordingly. The substitution of the word "health" for the word "medical" in section C.3.a.(2) is an insubstantial change which adds clarity to the rule. The rule has been amended accordingly. The sentence MDH proposed to add as a new section, C.1.c., substantially changes the rule by adding a new requirement. Therefore, the Department has not incorporated the change. The sentence which MDH proposed to add at the end of section C.3.a.(2) would substantially alter the meaning of that section. Therefore, the Department has not incorporated the change.

3. The Department has reviewed the proposals of the Minnesota Department of Health regarding Proposed Rule 216. These proposals are contained in Para. 39 of the Hearing Examiner's Findings of Fact. These proposals result in insubstantial changes which add clarity to the rule. The rule has been amended accordingly.

4. The Department has reviewed the question of the Ramsey County Welfare Department noted by the Hearing Examiner in Para. 40 of his Findings of Fact. This question is a proper subject for DPW manual, but requires no alteration in the rule.

IT IS FURTHER ORDERED, that these rules identified as Rules 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218 of the Rules of the Minnesota Department of Public Welfare are adopted this _____ day of _____, 1977, and after this day Rules 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 and 218 shall read in their entirety as set forth in the attached Exhibit B,

pursuant to the authority vested in me, and pursuant to Minn. Stats., Chapters 15, 253A. 256, 257, 259 and 393.

Dated: 8/24/77

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Edward J. Dirkswager Jr.

EDWARD J. DIRKSWAGER, JR.
Acting Commissioner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING SOCIAL SERVICES RULES NUMBER 171, 200, 210, 211, 212, 213, 214, 215, 216, 217 AND 218.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on June 10, 1977, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Public Welfare on July 27, 1977; and

WHEREAS, the Department of Public Welfare has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Public Welfare has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Public Welfare has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Public Welfare has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 8th day
of September, 1977.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner