

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

EXHIBIT D
Proposed Rule
For Adoption

Minnesota Rule DPW #17: "Reimbursement for Mentally Ill Patients Relocated by the Closing of Hastings State Hospital."

A. Introduction

1. This rule governs state financing for mentally ill persons pursuant to Minn. Stat., Chapter 453, Section 21 (laws of 1977) and 1978 Minn. Session Laws, Chapter 793, Sec. 30, Subd. 2. This rule will be effective only as long as funds specifically appropriated by the Legislature are available for this purpose.

2. Definitions

a. County welfare board: single or multi-county boards established under the authority of Minn. Stat., Chapter 393.

b. Human service board: Single or multi-county boards established under the authority of Minn. Stat., Chapter 402, as amended.

c. Community mental health board: Single or multi-political subdivision boards organized under the authority of Minn. Stat. 245.61-245.69 to provide local mental health programs and services.

d. Mentally ill person: A person defined by Minn. Stat. 253A.02, Subd. 3.

e. Discharge treatment plan: A written plan, based on an assessment of each individual patient's strengths and disabilities, which includes specific goals appropriate to the individual, states how the goals will be met, and by what means and who will carry out the plan.

f. Residential care program: A living unit for the accommodation and treatment of mentally ill persons.

g. Social and rehabilitative services: Those activities provided to carry out the individualized treatment plan for each mentally ill person.

h. State agency: Minnesota Department of Public Welfare.

i. County of financial responsibility: Defined by Minn. Stat. 256D.18.

B. Standards for the awarding of grants.

1. The State Agency will reimburse quarterly the county welfare board, or human service board, of the county of financial responsibility for the county's shares of expenditures incurred in caring for those persons described in A.1. in accord with individual discharge treatment plans.

2. As a condition of qualifying for this reimbursement, the aforementioned county welfare boards or human service boards shall first make use of all available public income maintenance programs, Medical Assistance (Title XIX) and private insurance coverage for which patients are eligible. The county's financial share of any eligible expenditures shall be reimbursable.

3. An initial advance shall be available upon request of the responsible county, equivalent to the anticipated expenditure, based on a spending plan which has the prior approval of the State Agency.

4. Reimbursement will be available for eligible persons who are placed in the most suitable available community program if:

a. Ramsey, Washington or Dakota County is the county of financial responsibility, and;

b. Suitability is determined by the legally responsible county as that program deemed most able to carry out the individual's discharge treatment plan.

5. In order to be eligible, a person must:

a. have a current primary diagnosis of mental illness, and;

b. have been a patient of the Hastings State Hospital, and;

c. be discharged within the limits of 1978 Minn. Session Laws, Chapter 793, Sec. 30, Subd. 2, and;

d. Ramsey, Washington or Dakota County must be the county of financial responsibility.

C. Eligible for Inclusion in Individual Discharge Treatment Plans and for Reimbursement

1. Services eligible for reimbursement under this rule include, but are not limited to:

a. Day programming (day activity, work and prework training, recreation and education).

b. Twenty-four hour crisis intervention aimed primarily at aiding medical and nonmedical crises of persons eligible under B.5. of this rule.

c. Independent living training unit which assists individuals or groups who need preparation and/or support in finding and maintaining housing, finding and keeping a job, managing money, developing suitable recreational activities and other related services needed, in order to increase their ability to function independently and responsibly.

d. Drop-in centers for socialization and recreation where people with a history of mental illness may go for semi-structured activities and social support from others with similar backgrounds.

e. Residential maintenance (board and care) living costs not reimbursable from other sources, including Supplemental Security Income, Minnesota Supplemental Aid, Medicaid, and applicable group health insurance.

f. Program costs (excluding room and board) provided for residents of residential care programs in accordance with the individual program plans of eligible persons. If an individual is able to move to independent living and qualifies for any available income maintenance or medical assistance program for which the county of financial responsibility would have some share of financial responsibility, that amount is reimbursable from this appropriation.

g. Outpatient therapy, either on an individual or group basis.

D. Conditions for Reimbursement

1. Each county welfare or human service board having financial responsibility for one or more eligible patients of the Hastings State Hospital shall, before the actual termination of the direct care services of the hospital, determine with the State Agency and the hospital which individual patients are potentially eligible. They shall determine, with the appropriate assistance of the community mental health board which serves the county of financial responsibility, the individual discharge-treatment plans for each eligible patient, subject to the final approval of the State Agency.

2. The responsible agencies, as stated in D.1. shall have the responsibility of reviewing the individual treatment plans at least quarterly. Expenditures incurred as a result of changes in the individual treatment plans will also be eligible for reimbursement within the terms and conditions of this rule.

3. The financially responsible county welfare or human service board shall certify quarterly to the State Agency the costs eligible for reimbursement, by eligible persons.

4. The county welfare boards or human service boards may apply to the State Agency for an advance to provide, purchase, or initiate the services necessary to carry out the individual treatment plans for eligible persons, under the terms of B.3. of this rule.

E. Miscellaneous

1. Subordination of rule to state and federal laws. Any provision of this rule which is inconsistent with any state or federal law is superseded thereby.

2. Severability. The provisions of this rule shall be severable and if any clause, sentence or provision is declared illegal or of no effect, the validity of the remainder of this rule and the applicability thereof, to any agency, person or circumstance shall not be affected thereby.

HR/hjw

APPROVED AS TO FORM AND LEGALITY

JUL 7 1978 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 7 - 1978
Joan Anderson Growe
Secretary of State

7:55 PM

438 WELFARE

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 6/21 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 7/11

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N.A.
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable N.A.
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N.A
17. Petition by Public, where applicable N.A.

EXHIBIT B

RECEIVED
APR 3 1978
LEGAL
SERVICES

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

In the Matter of Proposed Adoption of Rules of the Department of Public Welfare Governing the Reimbursement for Mentally Ill Patients Relocated to Community Placement by the Closing of Hastings State Hospital, Rule 17.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Natalie L. Gaull, duly appointed Hearing Examiner on February 23, 1978, in the Department of Natural Resources Conference Room, Centennial Office Building, 658 Cedar Street, Saint Paul, Minnesota.

James Jorgenson, Special Assistant Attorney General, appeared as counsel on behalf of the Department of Public Welfare. James T. Sarazin, Director of the Mental Health Division of the Department of Public Welfare, testified on behalf of the Department. Allen Beck, Residential Services Bureau of the Department of Public Welfare appeared on behalf of the Department, but did not testify.

Witnesses at the hearing included Kathy O'Connor, Exodus Program of People, Inc. 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 of Public Welfare 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

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 of Public Welfare shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

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

FINDINGS OF FACT

1. On January 20, 1978, the Department of Public Welfare (hereinafter "DPW") mailed the Notice of Hearing to all persons and associations who had registered with the Secretary of State for the purpose of receiving such notice as well as to those persons and agencies listed on the Affidavit of Additional Mailing. (Agency Ex. 7)

2. On January 23, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 1404.

3. On January 24, 1978, DPW filed the following documents with the Office of Hearing Examiners:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) A copy of the proposed rules;
(d) The Certificate of Delivery of the Secretary of State's List and the Secretary of State's List;
(e) The Affidavit of Receipt of the Secretary of State's List;
(f) The Affidavit of Mailing;
(g) An Affidavit of Additional Mailing to Persons and Agencies;
(h) The Statement of Need; and
(i) The Statement of Evidence including the names of witnesses to be called.

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

4. The record remained open through March 2, 1978, for the receipt of written comments and statements. No public comments were received during this period. However, a written comment was received on February 13, 1978, from Arthur E. Noot, Deputy Director of the Ramsey County Welfare Department, which was forwarded to DPW.

Statutory Authority

5. That the Department cited Minn. Laws 1975, Ch. 434, and Minn. Laws 1977, Ch. 453, Sections 17 and 21, as authority for promulgation of the proposed rules. That authority is also found in Minn. Stat. § 256.01, subd. 2(7) (1977).

6. That the rule proposed is needed to implement Minn. Laws 1977, Ch. 453, Sections 17 and 21, which (1) appropriates funds to the Department of Public Welfare to be expended in Dakota, Washington and Ramsey Counties for the cost of care of mentally ill persons who were in-patients of Hastings State Hospital on May 20, 1977, and who may be placed in community facilities as a result of the closing of Hastings State Hospital on May 1, 1978, and (2) delegates the responsibility to provide for the transfer of patients and patient records to other hospitals operated by the Department or to provide for alternate care. (Emphasis added)

7. That Section A of the proposed rule is necessary to explain the scope and purpose of the rule and to provide definitions needed to interpret the rule. The closing of Hastings State Hospital will require the Commissioner of Public Welfare to secure alternative placements for current patients. Many experts in the field of mental health treatment and rehabilitation are convinced that community-based care and treatment are preferably to institutional care and treatment in that they are less disruptive to people's family and social relationships, and to their employment; that they carry much less social stigma; that they are a less restrictive alternative; and that recovery often occurs more quickly in familiar than unfamiliar surroundings.

8. That Section B of the proposed rule is necessary to set the standards and conditions for the awarding of grants. The requirement of Section B.1. that State reimbursement will be made on a quarterly basis is necessary to avoid onerous bookkeeping requirements for the Department of Public Welfare. However, Section B.3. alleviates possible financial hardships to local agencies resulting from quarterly reimbursement by permitting those agencies to request an initial advance upon development and presentation of a spending plan. Section B.2., which requires the local agencies to exhaust other sources of funds before qualifying for reimbursement under this proposed rule, is reasonable and necessary in light of the amount of funds available through other sources and the limited amount available under the Legislative appropriation. The other standards are based on the language contained in Minn. Laws 1977, Ch. 453.

9. That Section C of the proposed rule is necessary to define which services and programs are eligible for inclusion in individual treatment plans and for reimbursement under the rule. The services included under this section are generally accepted as important tools to assist the mentally ill person in learning practical skills which will enable the person to be more self-sufficient and which increase the possibility of eventual discharge without later rehospitalization.

10. That Section D of the proposed rule is necessary to set the conditions for reimbursement. The rule as proposed provides for determination of individual treatment plans in advance of termination of direct care through Hastings State Hospital. Quarterly review of the individual treatment plans and expenditures resulting therefrom provides the counties with an incentive to reevaluate and improve the individual treatment plan to meet the changing needs of the individual. The quarterly reporting requirement is reasonable because it permits the State Agency to monitor expenditures without excessively frequent reporting requirements for the local agencies.

11. Kathy O'Connor of the Exodus Program of People, Inc. commented that she felt the intent of the statute was good and needed, but that the eligibility requirements limited the number of people who could take advantage of the program because (1) the number of referrals to the Hastings State Hospital has decreased as a result of a general understanding that it was to be closed and (2) there were certain patients who would be ineligible for funds because they were discharged as a result of a temporary remission in their condition prior to May 1, 1978, but who would later have to be treated at another facility. The Agency felt that the population at Hastings had remained fairly stable. Also, Minn. Laws 1977, Ch. 453, Section 17, specifically defines eligible persons to include only those persons discharged as a result of the closing of Hastings State Hospital, and the rule must conform to that definition.

Based on the foregoing Findings of Fact, the Hearing Examiner makes the following:

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 requirements 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."

3. The Examiner concludes that the Department of Public Welfare has documented its statutory authority to take the proposed action.

4. The Examiner concludes that the Department of Public Welfare has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts.

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

RECOMMENDATION

That the Department of Public Welfare adopt the proposed rule.

Dated: March 31, 1978.

Natalie L. Gaull

NATALIE L. GAULL
Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

June 13, 1978

Mr. Edward J. Dirkswager, Jr.
Commissioner
Department of Public Welfare
Centennial Office Building
St. Paul, Minnesota 55155

Re: Our File: DPW-78-043-NG
In the Matter of Proposed DPW Rule 17

Dear Commissioner:

Enclosed herewith please find the Report of the Chief Hearing Examiner together with the original documents relating to the hearing on DPW Rule 17.

While I have found that the rules as proposed for final adoption are not substantially different from those as proposed, I felt that I should point out to you that this particular case was a very close one to call.

The Hearing Examiner in this case, Natalie Gaull, gave me a very detailed memorandum regarding her thoughts on the case prior to my review. In order to assist you in reviewing your final rule, and to prepare for potential discussions with the Attorney General upon his final review, I have attached a copy of Ms. Gaull's memorandum.

Yours very truly,

DUANE R. HARVES
Chief Hearing Examiner

DRH:sh
Encs.

AN EQUAL OPPORTUNITY EMPLOYER

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OFFICE OF HEARING EXAMINERS

Office Memorandum

TO : DUANE R. HARVES
Chief Hearing Examiner

DATE: June 8, 1978

FROM : NATALIE L. GAULL
Hearing Examiner

PHONE:

SUBJECT: DPW-78-043-NG; Rule 17.

I have completed my review of the above-entitled rule with regard to substantial change. My conclusions are that the changes in the title and in section A.1. do not constitute substantial change and merely resolve the conflict between the use of "community placement" in Chapter 453, Section 21 with the use of the language in Laws 1978, Chapter 793, Section 30, Subdivision 2 for "residential mental health treatment". I believe that the change to section 2.f. by deleting "established primarily" from the definition of residential care program and the deletion of "which is licensed or eligible to be licensed under DPW Rule 36" may, in fact, constitute a substantial change because it is permitting care to be carried out in a facility which may be fundamentally different from one which is licensable under DPW Rule 36. I believe it is possible that persons might have appeared at the hearing who did not appear if such language had been in the original rule and, thus, under Rule HE 108 could possibly constitute substantial change. The change in section B.2. with regard to the addition of language "the county's share of any eligible expenditure shall be reimbursable.", may also present some problems. This language was added after the issuance of my Report based upon a comment received on February 13, 1978, from the Ramsey County Welfare Department. The thrust of the comment was that the section should be clarified to indicate that the county's financial share of the income maintenance programs should be reimbursable under the rule. Although it may have been the Department's intent that the additional language clarify that, it is my opinion that in fact it does not. I do not know whether it would be better to suggest more specific language, since it does not constitute a substantial change--just additional confusion. The final change is with regard to section B.5.d. and e. I concur in your conclusion that these do not constitute substantial change.

I do however have some concerns with regard to the compatibility of the proposed rule with 1978 Session Laws, Chapter 793, Section 30, Subdivision 2. The 1977 Laws, Chapter 453, Section 21, simply made a blanket appropriation of $300,000 to be expended in Ramsey, Washington, or Dakota County subject to certain limitations. The 1978 Law specifically requires that the money to be proportionally distributed on the basis of each county census of mentally ill residents of Hastings State Hospital for the five year period ending May 1, 1978. Therefore, the entire scheme which is set up by Rule 17 with regard to reimbursement is superceded by the 1978 Law which in effect sets up an allocation system for dividing the total $300,000 between those three counties. While this does not in any way constitute a substantial change in the rule, I believe that it is a problem that the Department of Public Welfare should be aware of. Frankly, I am not sure what the best way would be to handle

it. Perhaps you have some suggestions.

NG:sw
cc: George A. Beck

ADMIN 1000 (Rev. 1/78)

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Yours very truly,

DUANE R. HARVES
Chief Hearing Examiner

DRH:sh
Encs.

AN EQUAL OPPORTUNITY EMPLOYER

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General James A. Jorgensen, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

James A. Jorgensen

Special Assistant Attorney General

Dated: June 16, 1978

EXHIBIT D
Proposed Rule
For Adoption

Minnesota Rule DPW #17: "Reimbursement for Mentally Ill Patients Relocated by the Closing of Hastings State Hospital."

A. Introduction

1. This rule governs state financing for mentally ill persons pursuant to Minn. Stat., Chapter 453, Section 21 (laws of 1977) and 1978 Minn. Session Laws, Chapter 793, Sec. 30, Subd. 2. This rule will be effective only as long as funds specifically appropriated by the Legislature are available for this purpose.

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f. Residential care program: A living unit for the accommodation and treatment of mentally ill persons.

g. Social and rehabilitative services: Those activities provided to carry out the individualized treatment plan for each mentally ill person.

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1. The State Agency will reimburse quarterly the county welfare board, or human service board, of the county of financial responsibility for the county's shares of expenditures incurred in caring for those persons described in A.1. in accord with individual discharge treatment plans.

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HR/hjw

Agency Ex. 3

Proposed Rule

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RECEIVED
JAN 24 1978
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2. As a condition of qualifying for this reimbursement, the aforementioned county welfare boards or human service boards shall first make use of all available public income maintenance programs, Medical Assistance (Title XIX) and private insurance coverage for which patients are eligible.

3. An initial advance shall be available upon request of the responsible county, equivalent to the anticipated expenditure, based on a spending plan which has the prior approval of the State Agency.

4. Reimbursement will be available for eligible persons who are placed in the most suitable available community program if:

a. The program is located within Ramsey, Washington, or Dakota County, or;

b. Ramsey, Washington or Dakota County is the county of financial responsibility, and;

c. Suitability is determined by the legally responsible county as that program deemed most able to carry out the individual's discharge treatment plan.

5. In order to be eligible, a person must:

a. have a current primary diagnosis of mental illness, and;

b. have been a patient of the Hastings State Hospital on May 20, 1977, and;

c. be discharged as a result of the closing of the Hastings State Hospital, and;

d. be placed within Ramsey, Washington or Dakota County, or;

e. if placed in a county other than those in B.4.d. above, then Ramsey, Washington or Dakota County must be the county of financial responsibility.

C. Eligible for Inclusion in Individual Discharge Treatment Plans and for Reimbursement

1. Services eligible for reimbursement under this rule include, but are not limited to:

a. Day programming (day activity, work and prework training, recreation and education).

b. Twenty-four hour crisis intervention aimed primarily at aiding medical and nonmedical crises of persons eligible under B.5. of this rule.

c. Independent living training unit which assists individuals or groups who need preparation and/or support in finding and maintaining housing, finding and keeping a job, managing money, developing suitable recreational activities and other related services needed, in order to increase their ability to function independently and responsibly.

d. Drop-in centers for socialization and recreation where people with a history of mental illness may go for semi-structured activities and social support from others with similar backgrounds.

e. Residential maintenance (board and care) living costs not reimbursable from other sources, including Supplemental Security Income, Minnesota Supplemental Aid, Medicaid, and applicable group health insurance.

f. Program costs (excluding room and board) provided for residents of residential care programs in accordance with the individual program plans of eligible persons. If an individual is able to move to independent living and qualifies for any available income maintenance or medical assistance program for which the county of financial responsibility would have some share of financial responsibility, that amount is reimbursable from this appropriation.

g. Outpatient therapy, either on an individual or group basis.

D. Conditions for Reimbursement

1. Each county welfare or human service board having financial responsibility for one or more eligible patients of the Hastings State Hospital shall, before the actual termination of the direct care services of the hospital, determine with the State Agency and the hospital which individual patients are potentially eligible. They shall determine, with the appropriate assistance of the community mental health board which serves the county of financial responsibility, the individual discharge-treatment plans for each eligible patient, subject to the final approval of the State Agency.

2. The responsible agencies, as stated in D.1. shall have the responsibility of reviewing the individual treatment plans at least quarterly. Expenditures incurred as a result of changes in the individual treatment plans will also be eligible for reimbursement within the terms and conditions of this rule.

3. The financially responsible county welfare or human service board shall certify quarterly to the State Agency the costs eligible for reimbursement, by eligible persons.

4. The county welfare boards or human service boards may apply to the State Agency for an advance to provide, purchase, or initiate the services necessary to carry out the individual treatment plans for eligible persons, under the terms of B.3. of this rule.

E. Miscellaneous

1. Subordination of rule to state and federal laws. Any provision of this rule which is inconsistent with any state or federal law is superseded thereby.

2. Severability. The provisions of this rule shall be severable and if any clause, sentence or provision is declared illegal or of no effect, the validity of the remainder of this rule and the applicability thereof, to any agency, person or circumstance shall not be affected thereby.

ER/hjw

Agency Ex. 2

RECEIVED
JAN 24 1978
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 THE REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Department of Natural Resources Conference Room 3rd Floor, Centennial Office Building, 658 Cedar Avenue on February 23, 1978 commencing at 9:00 and continuing until all persons have had an opportunity to be heard.

IT IS HEREBY 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 piblished in the State Registor.

Edward J. Dirkswager Jr.

EDWARD J. DIRKSWAGER, JR.
Commissioner

Date: 1-24-78

Agency Ex. 1

RECEIVED
JAN 24 1978
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 THE REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the Department of Natural Resources Conference Room, 3rd Floor, Centennial Office Building, 658 Cedar Avenue, St. Paul, Minnesota, 55155, on February 23, 1978, 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 George Beck, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8108, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

DPW Rule 17 governs the expenditure of $300,000 appropriated for the biennium ending June 30, 1979, to be expended in Ramsey, Washington and Dakota Counties for the cost of care of mentally ill persons who were in-patients of Hastings State Hospital on May 20, 1977, who may be placed in community facilities as a result of the closing of Hastings State Hospital. It provides for standards for awarding grants, conditions regarding eligible patients, descriptions of eligible services, and conditions for reimbursement.

Copies of the proposed rule are now available and one free copy may be obtained by writing to James T. Sarazin, Director, Mental Health Program Division, Minnesota Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155, (612) 296-2710. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. Chapter 453, Section 21. A "statement of need" explaining why the agency feels the proposed rule is 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 number (612) 296-5615.

Edward J. Dirkswager

EDWARD J. DIRKSWAGER, JR.
Commissioner

Dated: January 9, 1978

Agency Ex. 7

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

RECEIVED
JAN 24 1978
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17

AFFIDAVIT OF ADDITIONAL MAILING

DIANE L. HENDERSON, being first duly sworn, deposes and says:

That on the 20th day of January, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to mailing the attached Notice of Hearing to all persons and associations listed on the Secretary of State's list, she also 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 the following agencies:

All Minnesota County Welfare Departments
All Minnesota Human Service Boards
All Minnesota Area Mental Health Boards
All Minnesota State Hospitals
Plus Attached List

Diane Lynn Henderson

Subscribed and sworn to before me
this 20 day of January
1978.

Margaret Holt

Rule 17
Notice + Copy of Rule —

Area Program Director
Dakota County Mental Health Center, Inc.
744 - 19th Avenue North
South St. Paul, MN 55075

John Catlin, Area Program Director
Ramsey County Mental Health Center
160 Kellogg
St. Paul, MN 55101

Stanley Keeley, Area Program Director
Washington County MH-MR Board, Inc.
3430 Hudson Road
Lake Elmo, MN 55042

Dick A. Dobrick, Acting Chief
Executive Officer
Hastings State Hospital
Box 321
Hastings, MN 55033

Minnesota Mental Health Association
4510 West 77th
Minneapolis, MN 55435

Mental Health Advocates Coalition
of Minnesota
594 East County Road B-2
St. Paul, MN 55117

Agency Ex. 6

RECEIVED
JAN 20 1978
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 THE REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17

CERTIFICATE OF DELIVERY SECRETARY OF STATE'S LIST

I hereby certify that the attached 487 Labels - 4 sheets constitute the complete list of persons, associations, and other interested groups who as of 8:30 o'clock A M., this 19th day of JANUARY, 1978, have requested pursuant to M.S. 1976, 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 Cheri L. Mattson

Agency Ex. 8

RECEIVED
JAN 24 1978
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 THE REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

DIANE LYNN HENDERSON, being duly sworn on oath deposes and says:

1) That she is an employee of the Executive Division of the State of Minnesota.

2) That on the 19th day of January, 1978, 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 had 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 19th day of January, 1978, 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.

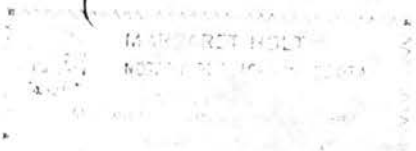
Further affiant sayeth not.

Diane Lynn Henderson

Subscribed and sworn to before me this 19 day of January, 1978.

Notary Public,
Ramsey County, Minnesota
My Commission expires Sept 22, 1984

Margaret Holt



Agency Ex. 9

RECEIVED
JAN 24 1978
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 THE REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17

AFFIDAVIT OF MAILING

DIANE LYNN HENDERSON, being first duly sworn, deposes and says:

That on the 20th day of January, 1978, 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.

Diane Lynn Henderson

Subscribed and sworn to before me this 20 day of January 1978.

Margaret Holt



Agency Ex. 5

RECEIVED
JAN 24 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF PUBLIC WELFARE GOVERNING REIMBURSEMENT FOR MENTALLY ILL PATIENTS RE-LOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17.

STATEMENT OF EVIDENCE

In addition to the "Statement of Need", which is available for inspection or purchase at the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, and in support thereof, the Minnesota Department of Public Welfare will introduce the following evidence:

Minnesota Statutes will be the source of evidence introduced.

We may call one or more of the following expert witnesses to testify:

James T. Sarazin, Wm. Craig Brooks, and Allen Beck from the Minnesota Department of Public Welfare may be called on to testify as to the legislative mandate to close Hastings State Hospital and provide funds for community placement of patients discharged due to the closing.

We intend to introduce the following manuals, books, scientific treatises, and other documentary evidence:

None.

We will be citing the following statute and case law:

Minnesota Statute 453, Sections 17 and 21 (Laws of 1977).
Minnesota Statute 434 (Laws of 1975).

Dated: January 16, 1978

James T. Sarazin

James T. Sarazin, Director
Mental Health Program Division
Minnesota Department of Welfare

Agency Ex. 4

RECEIVED
JAN 24 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF PUBLIC WELFARE GOVERNING REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17

STATEMENT OF NEED

The above-captioned rule is not an amendment to existing rules of the Minnesota Department of Public Welfare.

The need to adopt this rule arises because:

1. Minnesota Statute, Chapter 453, Section 21 (Laws of 1977), permits the Commissioner of Public Welfare to reimburse monies expended in Ramsey, Washington and Dakota Counties for the cost of care of mentally ill persons who were inpatients of Hastings State Hospital on May 20, 1977, who may be placed in community facilities as a result of the closing of Hastings State Hospital.

2. Minnesota Statute, Chapter 453, Section 17 (Laws of 1977), mandates that Hastings State Hospital shall be closed on May 1, 1978. It further requires that the Commissioner of Public Welfare shall provide for the transfer of patients to other state hospitals or provide for alternate care. Rule 17 is necessary to enable the Commissioner of Public Welfare to provide for appropriate alternate care.

3. This expenditure is intended to assist the counties of financial responsibility to finance the costs of community care for patients who otherwise would not be discharged at that time from Hastings State Hospital except for the legislative mandate to close the Hospital on May 1, 1978.

4. Many experts in the field of mental health treatment and rehabilitation are convinced that community-based care and treatment are preferable to institutional care and treatment in that they are less disruptive to people's family and social relationships, and to their employment; that they carry much less social stigma; that they are a less restrictive alternative; and that recovery often occurs more quickly in familiar than unfamiliar surroundings.

5. This legislation is compatible with the Department of Welfare's Comprehensive Plan submitted to the Minnesota Legislature in January, 1975, the Department of Public Welfare's Report to the 1976 Minnesota Legislature, submitted on January 5, 1976, which proposes a plan of community care of mentally ill residents of the Counties of Dakota, Washington and Ramsey, and Minnesota Statute, Chapter 434, (Laws of 1975), which provides mental illness deinstitutionalization monies for community care primarily in the Hastings State Hospital receiving district.

Dated: January 16, 1978

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

Edward J. Dirkswager, Jr.
Commissioner

EW/bcm

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULE 17 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED BY THE CLOSING OF HASTINGS STATE HOSPITAL.

ORDER ADOPTING RULE

The above entitled matter came on for hearing before Natalie L. Gaull, Hearing Examiner, Office of Hearing Examiners of the State of Minnesota, on February 23, 1978 at 9:00 A.M., in the Department of Natural Resources Conference Room, Centennial Office Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes 1976, Section 15.0412 was served on all persons, associations, and other interested groups registered with the Minnesota Secretary of State for that purpose.

At said hearing the proposed rule which is attached as Exhibit A was considered. James T. Sarazin, Director of the Mental Health Division, made the Agency presentation at the hearing. The hearing continued until all interested persons and groups had an opportunity to be heard. Based upon the proceedings as indicated in the Report of Hearing Examiner, dated March 31, 1978, a copy of which is attached as Exhibit B hereto, the Hearing Examiner made Findings of Fact, Conclusions and Recommendations.

Pursuant to Minnesota Statutes Section 15.0412, subd. 4 (1976), as amended by Laws 1977, Chapter 443, said original Report has been available to all affected persons for over five days subsequent to the date of the Report.

After affording interested persons an opportunity to present written and/or oral statements, having reviewed all the testimony, having considered all the evidence adduced, having considered the report of the Hearing Examiner, having considered the recent statutory amendment of the enabling legislation, and upon all the proceedings and testimony herein and applicable statutory standard or criteria, and having determined the need for the above-captioned rule and the reasonableness thereof,

NOW THEREFORE, IT IS ORDERED THAT the Commissioner hereby,

1.) adopts and incorporates herein the Report of the Hearing Examiner, dated March 31, 1978; provided, however that the Department of Public Welfare withdraws those sections of the rule that are in conflict with the recent statutory amendment of the enabling legislation. Those deletions, additions, and necessary changes in the numbering of the sections of the rule affected are contained in Exhibit "C", hereto.

2. adopts the proposed amendment submitted in writing to the Hearing Examiner by Ramsey County. This amendment modifies

Section B.2. of the Rule and is included in the attached Exhibit "C" amendments.

IT IS FURTHER ORDERED THAT the above-captioned rule from and after this day of June 2, 1978, shall read in its entirety as set forth in the attached Exhibit "D" hereto, pursuant to the authority vested in me pursuant to Minnesota Statutes, Chapter 15 and Minn. Stat., Chapter 453, Section 21 (Laws of 1977) as amended by 1978 Minn. Session Laws, Chapter 793, Section 30, Subd. 2.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Edward J. Dirkswager, Jr.
Commissioner

EXHIBIT C

Proposed Rule DPW #17: Additions and Deletions - May 3, 1978

Title: line 2 - delete "to Community Placement".

A.1.: line 1 - delete "for costs of care".
line 2 - delete "who were in-patients at the Hastings State Hospital".
line 3 - delete "on May 20, 1977 and are placed in community facilities".
line 4 - add, after "(laws of 1977)", "and 1978 Minn. Session Laws, Chapter 793, Sec. 30, Subd. 2."

A.2.f.: line 1 - delete "established primarily".
line 2 - delete "which is licensed,".
line 3 - delete "or eligible to be licensed, under DPW Rule 36."

B.2.: line 5 - add "The county's share of any eligible expenditures shall be reimbursable." (See 2/78 letter from Ramsey County submitted to Hearings Examiner.)

B.4.a.: - delete "The program is located within Ramsey, Washington, or Dakota County, or;".

B.4.b.: - change to "a."

B.4.c.: - change to "b."

B.5.b.: - delete "on May 20, 1977"

B.5.c.: - delete "as a result of the closing of the Hastings State Hospital,"

- add, after "be discharged", "within the limits of 1978 Minn. Session Laws, Chapter 793, Sec. 30, Subd. 2,".

B.5.d.: - delete "be placed within Ramsey, Washington or Dakota County, or;".

B.5.e.: - change to "d."

- delete "if placed in a county other than those in B.4.d. above, then".

HTH/cdn

DPW-78-043-NG

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 THE REIMBURSEMENT FOR MENTALLY ILL PATIENTS RELOCATED TO COMMUNITY PLACEMENT BY THE CLOSING OF HASTINGS STATE HOSPITAL, RULE 17.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on February 23, 1978, before Natalie L. Gaull, 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 March 31, 1978; 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 13th day
of June, 1978.

DUANE R. HARVES
Chief Hearing Examiner

FISCAL NOTE

Revisor's No. _____ Change in Costs* S.F. No. _____

Source of Funding	1977	1978	1979
Mn. Stat. Chapter 453, Sec. 21 (Laws of 1977)-DPW Rule 17- "Reimbursement for Mentally Ill Patients Relocated to Community Placement by the Closing of Hastings State Hospital	appropriation of $300,000 for biennium		
Less amount agency can absorb within existing funding	N/A		
TOTAL	anticipated expenditure of $5,000		

If any portion absorbed indicate activity(s) affected N/A

Change in Income*

	1977	1978	1979
Increase/(Decrease) From which Fund:	N/A		

Additional Personnel Required: Type; and Estimated Annual Cost:

None.

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FEB 7 1978
OFFICE OF HEARING EXAMINERS

Purpose of New Program and Intended Impact on Clientele: To govern the appropriateness for the cost of care of mentally ill patients of Hastings State Hospital who may be placed in community facilities as a result of closing Hastings State Hospital. The appropriation is to be used to reimburse the county share of those costs.

Criteria for Evaluation of Program: Quarterly reporting will enable the Department to monitor the expenditures. Monies are to be expended only for eligible services to eligible persons, as defined in law and rule.

Statutory Provisions Affected: Minn. Stat. 256.B. (Medical Assistance; 245 (Mental Health Centers); 393 (County Welfare Boards); 402 (Human Service Boards); 253.A. (Commitment Act); 256.D. (Minnesota Supplemental Aid & General Assistance).

Long Range Financial and Program Implications: None apparent.
(If Federal Funding is included, discuss probability of continued Federal support.)

N/A

Reviewed by Controller David B. Larson 1-16-78 Signature of Department Head 1/31/78 Date

*Attach a copy of the methodology and computations used to arrive at these numbers.