

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

#511 DEPT OF HEALTH
Family Planning -
Special Projects Grants.

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 3/7/79 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 3/27/79

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 ✓
17. Petition by Public, where applicable ✓.

RULES AS FINALLY ADOPTED

Minnesota Department of Health

Personal Health Services

Rules as Proposed

Chapter 27, Part II: 7 MCAR § 1.457

Family Planning Special Project Grants

A. Purpose, Scope and Applicability[1]

The purpose and scope of these Rules is to prescribe requirements applicable to Family Planning Special Project Grants, to establish minimum standards for family planning services supported in whole or in part by family planning special project grant funds, and to provide a criteria for the review of family planning special project grant applications. An applicant is not required to provide all family planning service components to be eligible for funding. The following parts of 7 MCAR §§ 1.451-1.455 and no others also apply to family planning special project grants: 1.451 A, B, C3, D; 1.452 A, B, C, D1&2, E; 1.453 A, B2c&e; 1.454 A, ~~B1,~~ B1-5a, d, e, f, C; 1.455B.

B. Definitions

"Approved Family Planning Methods" means agents and devices for the purpose of fertility regulation prescribed by a licensed physician, and other agents and devices for the purpose of fertility regulation including, ~~but not limited to~~ spermicidal agents, diaphragms, condoms, natural family planning

[1]Minn. Stat. § 145.925 contains provisions prohibiting use of these funds for abortions, family planning services to unemancipated minors in school buildings, requiring notice to parents or guardians of unemancipated minors to whom abortion or sterilization is advised, except as provided in Minn. Stat. §§ 144.341 and .342, and prohibiting coercing anyone to undergo an abortion or sterilization.

methods, sterilizations, and the diagnosis and treatment of infertility by a licensed physician, which can be paid for in whole or in part by family planning special project grant funds.

"Family Planning" means voluntary planning and action by individuals to attain or prevent pregnancy.

"Family Planning Services Components" means each of the public information, outreach, counseling, method, referral and follow-up services.

"Provide" means to directly supply or render or to pay for in whole or in part.

C. Content of Application

In lieu of the items a-h 7 MCAR § 1.452 D3, the application shall identify the geographic area to be served by the applicant and shall address the following information and requirements:

1. An inventory of existing family planning services provider agencies in the geographic area served by the applicant. The inventory shall include for each provider agency at least:
   a. names and addresses;
   b. the target population served, including total number served if available; if unavailable, estimates will be acceptable;
   c. family planning service components provided.
2. An assessment of unmet needs of the geographic area to be served by the applicant including, but not limited to, an identification of unavailable family planning service components and/or unserved or underserved population. A description of the method used in making the assessment shall be provided by the applicant.
3. A description of the family planning service components to be provided by the applicant. Procedures for referral and follow-up

shall be incorporated into all family planning services available on an individual basis. Each component to be provided with family planning special project funds must meet the standards for that component described in 7 MCAR § 1.457 D. For each component to be provided, the application must describe:

a. the goals;

b. the population to be served (target population);

c. the specific objectives to be achieved during the funding period;

d. the methods by which each objective will be achieved;

e. the criteria to be used to evaluate the progress towards each objective;

f. a budget and budget justification;

g. a summary of the training and/or experience relevant to the component(s) to be provided of the person(s) providing the service.

4. A description of the linkages between the applicant and other family planning services in the geographic area including, but not limited to, plans for contracts and/or cooperative agreements with other organizations, agencies or individual providers. All funded projects must establish linkages to facilitate access to outreach, counseling, and other component services for service recipients.

5. A description of fees, if any, to be charged individuals for any family planning services. Proposed fees must be charged in accordance with a sliding fee for services and supplies based on the cost of such services or supplies and on the individual's ability to pay as determined by income, family size and other relevant factors. When

applicable, the maximum fee charged shall not exceed the maximum reimbursement available from Title XIX, Medical Assistance. Services shall not be denied based on ability to pay as specified in "C8" herein.

6. Assurance that services will be provided in accordance with state and federal laws and rules.

7. A description of the policies and procedures that will be employed to maximize the use of third-party sources of funding.

8. Assurance that services will be provided without regard to age, sex, race, religion, marital status, income level, residence, parity, or presence or degree of disability except as otherwise required by law.

9. Assurance that arrangements shall be made for communication to take place in a language understood by the family planning service recipient.

10. When the applicant proposes to use family planning special project grant funds to supplant Community Health Services subsidy funds planned and budgeted for family planning services, the amount to be supplanted must be described in the application.

11. Assurance that the privacy of the service recipient will be maintained in accordance with law.

D. Family Planning Service Components, Definitions and Minimum Standards

All service components shall include information on family planning services available from the applicant. Service components to be provided by the applicant shall be defined as indicated and shall meet or exceed the following standards:

1. "Public Information" means specific activities designed to inform the general population about family planning and all family planning services available in the geographic area.

2. "Outreach" means specific activities designed to inform members of the target population about family planning and all the family planning services available in the geographic area. Outreach activities shall include, but not be limited to, one-to-one or small group contacts with the target population.

   Outreach shall be conducted at times and places convenient to the target population. Persons conducting outreach shall have training and/or experience in family planning services.

3. "Counseling" means utilization of non-directive interview techniques which enable individuals to voluntarily determine their participation in family planning services and their family planning method of choice, if any. When individuals are seeking to prevent pregnancy, counseling shall include the provision and explanation of factual information on all approved family planning pregnancy prevention methods. When individuals are seeking to attain pregnancy, counseling shall include the provision and explanation of factual information on infertility diagnosis and treatment and services for pregnant women available in the geographic area.

   Counseling shall be available to any individual in the target population and shall be conducted at times and places convenient to the target population. Counseling shall include documentation that information required in Subd. 7 of MN Laws, 1978, Chapter 775 has been provided. Counseling shall be conducted by persons with training and/or experience in counseling and family planning services.

4. "Method" means the provision to a service recipient of her/his approved family planning method of choice. Provision of any approved family planning method shall include, but not be limited to:

a. Procedures which document that the service recipient participated in counseling prior to selecting a family planning method to prevent pregnancy;

b. Voluntary selection of the approved family planning method by the service recipient;

c. Information on the advisability of females obtaining a gynecological examination with Pap smear prior to initiating any family planning method;

d. Education on the use of the selected family planning method, including the risks and benefits of the method;

e. Medical/laboratory services prior to the provision of a family planning method when the selected method requires medical intervention for prescription, fitting, insertion or for surgical or diagnostic procedures. When the selected method does not require medical intervention, as described herein, the applicant shall encourage service recipients to obtain medical/laboratory services, but provision by the applicant is not required. Medical/laboratory services shall include:

(1) Social and medical/surgical history with emphasis on the reproductive system;

(2) Height, weight, and blood pressure measures;

(3) Bimanual pelvic examination for females;

(4) Breast examination and instruction on self-examination for females;

(5) Hemoglobin or hematocrit;

(6) Urinalysis for sugar and protein;

(7) Pap smear.

In addition, when indicated by history or symptoms, the medical services shall include for both male and female as appropriate:

(8) Diagnosis and treatment of venereal disease;

(9) Diagnosis and treatment of vaginitis;

(10) Diagnosis of pregnancy.

Medical services shall be rendered by licensed physicians, or professional nurses with documentable training in gynecological care conducted under the supervision of a licensed physician, or nurse midwives certified by the American College of Nurse Midwifery, under the supervision of a physician. Laboratory tests shall be conducted by personnel trained to conduct such tests.

5. "Referral" means to provide, in writing, information to service recipients which enables them to participate in family planning.

6. "Follow-up" means specific procedures of continuing care designed to encourage safe and consistent family planning and utilization of other needed services.

E. Criteria for Award of Family Planning Special Project Grants

Applications which meet the requirements of law and these Rules shall be ~~funded~~ awarded in accordance with the notice of availability as specified in 7 MCAR § 1.452 A, procedures specified in 7 MCAR § 1.452 E, and the following criteria:

1. Applications proposing to provide all family planning service components in counties with no in-county subsidized family planning service as of December 31, 1978, will be given priority above all other applications.

2. Quality and Content: ~~In addition to 7 MCAR § 1.453 B2e&e, applications~~ Applications will be evaluated on the basis of:

a. 7 MCAR § 1.453 B2 c and e;

~~a.~~ b. The extent the funds will be used to meet unmet needs in the geographic area as identified in the application;

~~b.~~ c. The extent the application proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant;

~~c.~~ d. The extent the application proposes to coordinate family planning services with organizations, agencies and individual providers in the geographic area to be served.

3. Agency

When equivalent and competing applications are submitted for a geographic area, award ~~funding~~ priorities will be in accordance with the following:

a. First priority will be given to local boards of health;

b. Second priority will be given to eligible non-profit corporations. Prior to submission to the Commissioner, the applicant shall submit the proposal to the local board of health for review and comment. Any comments of a local board of health shall be submitted to the Commissioner within 20 days of the date the proposal was mailed to the local board.

~~When requests for family planning special project grant funds from eligible applicants exceeds the amount of such funds available, applications will be funded in accordance with the following:~~

~~1. Applications proposing to provide service in counties with no in-county family planning service as of December 31, 1978, will receive first priority. If the total of funding requests in these applications exceed funds available, all first priority requests will be multiplied by a ratio of total available funds to total funds requested under this priority.~~

2.--Applications requesting funding of $20,000 or less will be given second priority.--If the total funding requests in these applications exceeds the funds available for distribution, all second-priority requests will be multiplied by the ratio of funds available minus funds awarded under priority one to funds requested minus funds available under priority one.

3.--Remaining applications will be given third priority and recieve an amount equal to their request multiplied by the ratio of total available funds minus funds awarded under priorities one and two to total requested funds minus funds awarded under priorities one and two.*

F. Contingency Funding Proration

If after processing applications in accordance with Section E above, the total amount of funds budgeted in these applications exceeds the amount of family planning special project grant funds available, applications will be funded in accordance with the following:

1. Applications proposing to provide service in counties with no in-county family planning service as of December 31, 1978, will receive first priority. Up to the first $20,000 of the recommended

*-Example of funding award under priority three:

Applicant's family planning special project funds request-----$--100,000
Total funds available for distribution----------1,000,000
Total funds requested----------1,500,000
Total funds distributed under priorities one and two----------250,000

Funds awarded to applicant-=--$100,000---$\frac{1,000,000---250,000}{1,500,000---250,000}$

budget in these applications will be awarded with no modification. Any portion in excess of $20,000 will be awarded in accordance with number 2 as follows:

2. All other applications and those unawarded portions of applications in number 1 above, will be prorated in an amount equal to their recommended budget multiplied by the ratio of total available funds minus funds awarded under number 1 above to total amount of the recommended budgets minus funds awarded under number 1 above.

G. Use of State Funds Available for Family Planning Special Project Grants

1. Family planning special project grant funds awarded to applicant may be used to supplant Community Health Services subsidy funds planned and budgeted for family planning services in the 1978 or 1979 Community Health Services Plan.
2. Family planning special project grant funds may not be used to supplant any existing federal or local funds for family planning information or services.
3. Applicants are not required to match funds available under family planning special project grants.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 3 1978
Secretary of State

APPROVED AS TO FORM AND LEGALITY
MAR 27 1979
_____ 19____
WARREN SPANNAUS, ATTORNEY GENERAL
BY Joanne Hinderaker
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 27 1979
Joan Anderson Growe
Secretary of State
3:05 P.M.

RECEIVED
MAR 27 1979
ADMINISTRATIVE AGENCIES

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

PLANNED PARENTHOOD OF MINNESOTA, a Minnesota non-profit corporation,

Plaintiff,

v.

THE STATE OF MINNESOTA, RUDY PERPICH, individually and as Governor of the State of Minnesota, WARREN R. LAWSON, M.D., individually and as Commissioner of Health of the Minnesota Department of Health, WARREN SPANNAUS, individually and as Attorney General of the State of Minnesota, their agents, representatives, successors, those acting in concert with them, and all others similarly situated,

Defendants.

4-78 Civ. 296

MEMORANDUM ORDER

ATTORNEY GENERAL
SOLICITOR GENERAL
RECEIVED
A.M. FEB 23 1979 P.M.
7 8 9 10 11 12 1 2 3 4 5 6 7

FRANZ P. JEVNE, III, Esq. and GREGORY PULLES, Esq., Mackall, Crounse & Moore, Minneapolis, Minnesota, appeared for the plaintiff.

KENT G. HARBISON, Esq., Special Assistant Attorney General, and TERRY O'BRIEN, Esq., Special Assistant Attorney General, St. Paul, Minnesota, appeared for the defendants.

The above-entitled action came on for trial before the court on January 15 through 17, 1979. Plaintiff, Planned Parenthood, is challenging the constitutionality of Section 1, Subdivision 2 of the Minnesota Family Planning Grants Act, Minn. Laws 1978, Ch. 775 (the "Act"). This memorandum opinion shall constitute the court's findings of fact and conclusions of law pursuant to Rule 52 of the Fed. R. Civ. P.

The Act establishes an appropriation of $1.3 million to the Minnesota Commissioner of Health for disbursement to cities, counties or non-profit corporations to provide pre-pregnancy family planning services. Section 1, Subdivision 2 provides as follows:

> The commissioner shall not make special grants pursuant to this section to any nonprofit corporation which performs abortions. No state funds shall be used under contract from a grantee to any nonprofit corporation which performs abortions. This provision shall not apply to hospitals licensed pursuant to sections 144.50 to 144.56, or health maintenance organizations certified pursuant to chapter 62D.

Plaintiff seeks to have the challenged provision declared unconstitutional and to have defendants permanently enjoined from enforcing its mandate. This court has jurisdiction under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343.

Plaintiff is a private, non-profit corporation which provides pre-pregnancy family planning services through ten clinics and a network of family planning workers covering 77 of Minnesota's 87 counties. In many counties, plaintiff is the only organized provider of family planning services. Plaintiff additionally provides first trimester abortions at its Ford Parkway Clinic in St. Paul, Minnesota.

Defendants are the State of Minnesota and the officials responsible for the implementation and enforcement of the Act.

Plaintiff presents three constitutional issues to the court. The first is whether plaintiff's right to privacy as guaranteed by the Ninth and Fourteenth Amendments is unconstitutionally impinged upon by its exclusion from eligibility for funds under the Act.

The second issue raises the question of whether plaintiff's Fourteenth Amendment right of equal protection is violated by the exclusion of plaintiff from eligibility to receive funds under the Act solely because plaintiff provides abortion services, particularly when hospitals and health maintenance organizations (HMO's), which also provide abortion services, remain eligible.

The third issue raised is whether plaintiff's exclusion from eligibility constitutes a bill of attainder prohibited by Article I, § 10 of the United States Constitution.

At trial, plaintiff sought to introduce into evidence plaintiff's exhibits 5-37, inclusive, consisting of minutes, journal excerpts, and tapes, logs, and transcripts of the legislative history of the Act as well as the various engrossments of the bill. Defendants objected on the grounds of relevancy, and the court reserved ruling on the issue.

The court has determined that the legislative materials offered by plaintiff are relevant and admissible evidence on the issues of equal protection and bill of attainder. For these purposes, they will be received and considered. With respect to the equal protection issue, the legislative history is relevant to a determination of the statutory purpose and to a determination of the rational relationship of the challenged discrimination to that purpose. Weinberger v. Wiesenfeld, 420 U.S. 636 (1975); United States Department of Agriculture v. Moreno, 413 U.S. 528 (1973); Shapiro v. Thompson, 394 U.S. 618 (1969); United States v. Carolene Products Co., 304 U.S. 144 (1938).

With respect to the bill of attainder issue, the legislative history is relevant to a determination of legislative intent to punish. Nixon v. Administrator of General Services, 433 U.S. 425 (1977); United States v. O'Brien, 391 U.S. 367, 384 fn. 30 (1968); Flemming v. Nestor, 363 U.S. 603 (1960); United States v. Lovett, 328 U.S. 303 (1946).

Invasion Of Privacy

Plaintiff contends that the Act intends to, and has the effect of, coercing plaintiff to discontinue providing abortion services in order to be eligible for pre-pregnancy family planning services funding under the Act. Plaintiff

alleges that this coercion deprives plaintiff, its physicians, and its patients of their respective rights to provide and to seek first trimester abortions in the exercise of the constitutional right to privacy. Roe v. Wade, 410 U.S. 113 (1973); Doe v. Bolton, 410 U.S. 179 (1973).

Defendants argue first that plaintiff lacks standing to assert the right to privacy in this instance. Assuming standing, they claim that the deprivation of eligibility for financial subsidy is not the sort of interest protected by the right of privacy. Maher v. Roe, 432 U.S. 464 (1977). The Act does not affirmatively prohibit abortions or subject physicians who perform abortions to criminal sanctions.

The court will assume that plaintiff has standing to assert the privacy claim. Even so, the court finds that the Act does not impose an undue burden on the rights of plaintiff, its physicians, or its patients to provide or to seek abortion services. As long as those persons have not been precluded by governmental action from choosing to provide abortion services or to seek such services, they have not been deprived of a fundamental right. Doe v. Mundy, 411 F. Supp. 447 (E.D. Wisc. 1977). The state is not required to provide financial assistance for the exercise of that right. Maher v. Roe, supra.

The court further finds that plaintiff has not been the direct recipient of state funds for either its family planning services or its abortion services in the past; thus, it is not being deprived of anything which it has heretofore had available. Furthermore, no evidence was presented at trial that the denial of funds under the Act will cause plaintiff to discontinue its abortion services in order to become eligible for funding.

Equal Protection

The next issue presented is whether a state statute which excludes from eligibility for funding for pre-pregnancy family planning services any non-profit corporation which performs abortions, while exempting hospitals or HMO's which perform abortions, violates the Fourteenth Amendment right to equal protection under the laws.

The court must first determine the appropriate legal standard to be applied to the facts presented. Plaintiff contends alternatively that (1) an invasion of the fundamental right to privacy is involved and (2) the discrimination is invidious and arbitrary on its face; consequently, plaintiff urges the court to utilize the strict scrutiny analysis, which requires a compelling state interest to justify the exclusion and exemption.

As discussed in the preceding section, the court has concluded that plaintiff's fundamental right to privacy is not involved in this proceeding. In view of the court's conclusions below upon the application of the rational basis test, it need not decide whether the strict scrutiny test is triggered by the allegedly invidiously discriminatory nature of the statute.

Where the strict scrutiny test is not applicable, the appropriate analysis for the court is the rational basis approach. This involves a two-step analysis. First, there must be a legitimate state purpose for the legislation, and second, the legislation must be rationally related to that purpose.

There is general agreement that the purpose behind the Act itself is to expand the availability of pre-pregnancy family planning services in Minnesota. There is ample evidence of this in the legislative record. This is unquestion-

ably a legitimate statutory purpose. Whether the Act implements this purpose in the most efficient or expeditious manner is not a proper subject of review by this court.

The legislative purpose behind the challenged provision is not as clear. It appears from the testimony at trial and the legislative record that the purpose of the exclusion is either (1) to insure that no state monies are used directly or indirectly to fund abortion services, or (2) to insure that no state monies are used to fund some non-profit corporations which perform abortion services. The issue presented to the court is whether the classifications drawn in the statute are reasonable in light of these purposes. McLaughlin v. Florida, 379 U.S. 184 (1964).

With respect to insuring that no state monies are used to fund abortion services, the United States Supreme Court held in Maher v. Roe, 432 U.S. 464 (1977), that the state has a strong and legitimate interest in encouraging natural childbirth; thus, the state's intention to avoid funding abortions is a valid one. However, on the basis of the evidence adduced at trial, the challenged exclusion bears no rational relationship to this purpose.

There is no dispute that the funds appropriated under the Act must be distributed solely for pre-pregnancy family planning services; thus, there is no possibility that the funds could be utilized directly for abortion services.

Defendants argue that the disbursement of Act funds to an organization which performs abortions as well as pre-pregnancy family planning services would allow such an organization to "free-up" monies of its own which it then could apply to the abortion services. This legislative concern is also found in the history of the Act. It is further evidenced by a purposed amendment to the Act which

would have required an eligible applicant to maintain the same level of expenditure of its own monies on pre-pregnancy family planning services in a grant year as in the preceding year.

Even if this were a legitimate legislative concern (and the court notes that the "freeing-up" argument has been rejected by the courts in the context of state funding of private education), there is no evidence that it supports the challenged exclusion. At trial, plaintiff introduced testimony that it routinely receives restricted funding which is carefully controlled and monitored. Plaintiff has received and utilized federal funds which are specifically prohibited from being used for abortions.

Defendants have introduced no factual evidence to support their freeing-up theory. Plaintiff's application for Act funds, which is on file with the commissioner, anticipates an expansion of plaintiff's pre-pregnancy family planning services. It does not create the potential for the reallocation of funds within the corporation.

The court concludes that the exclusion of non-profit corporations which perform abortions from eligibility for funds under the Act bears no reasonable relationship to the legislative purpose of not funding abortions.

With respect to insuring that no state monies are used to fund some non-profit corporations which perform abortions, the court will assume that it is arguably constitutionally permissible for a state to adopt and maintain a policy of providing no funding to any agency or entity which performs abortions. In the instant case, however, the statute allows some such corporations (hospitals and HMO's) to remain eligible for funds under the Act while excluding all other such organizations. The court must thus determine whether there is some rational basis for this distinction.

The evidence adduced at trial is persuasive that there is no rational distinction between plaintiff and any other non-profit corporation with respect to the providing of pre-pregnancy family planning services, nor is there a rational distinction between plaintiff and other non-profit corporations which perform abortions (such as hospitals and HMO's) with respect to the providing of pre-pregnancy family planning services. The expert testimony was that there is no inherent difference in the quality or nature of the rendition of pre-pregnancy family planning services by plaintiff, an HMO, or a hospital.

Defendants allege that plaintiff has institutionalized its abortion policy in such a manner as to create an internal conflict of interest with the delivery of pre-pregnancy family planning services. The evidence at trial was that plaintiff initiated the performance of abortions at one clinic in January, 1977 as a result of its study indicating a high rate of repeat abortions in Minnesota. The decision was primarily motiviated by a belief that through providing pre-pregnancy family planning counseling and contraceptive devices to women seeking abortions, plaintiff could help to reduce the re-occurrence of abortions.

Plaintiff's mission is to provide counseling and information to its patients, to educate the public and other professionals, and to deliver medical care. (Pl. exh. 1) In its November 1973 General Procedural and Policy Statement on abortion (Pl. exh. 2), plaintiff states that it "does not consider abortion to be a primary means of birth planning." There is no evidence that the nature or quality of plaintiff's delivery of pre-pregnancy family planning services has been affected by its decision to perform abortions. With respect to eligibility for funds for pre-pregnancy family

planning services, the fact that abortions are performed at one of plaintiff's clinics as a result of an institutional decision by its board of directors does not distinguish it from hospitals and HMO's which merely provide the facilities for private physicians to perform abortions.

Defendants urge that hospitals and HMO's are distinguishable from other non-profit corporations which perform abortions in that (1) they perform abortions as part of the delivery of "total health care" services; (2) they are subject to greater legislative control and public accountability; (3) they provide superior in-house medical care resulting in better total family planning care; (4) they operate under a more complex accounting system which provides less opportunity for the operation of the freeing-up theory; and (5) HMO's are specifically required to provide abortions in certain circumstances. There is no evidence to support the theory that these distinctions are critical or relevant to the granting of funds for pre-pregnancy family planning services.

The court thus concludes that there is no rational basis to support the exclusion of non-profit corporations which perform abortions, with the exemption of hospitals and HMO's, from eligibility for funding under the Act. This being the case, the challenged provision unconstitutionally violates plaintiff's rights to equal protection under the law.

Bill of Attainder

Plaintiff contends that the exclusion of Planned Parenthood from eligibility for funding under the Act constitutes a bill of attainder prohibited by Article 1, Section 10 of the United States Constitution.

To constitute a bill of attainder, the challenged legislation must contain the elements of specificity of identification, punishment, and lack of a judicial trial. United States v. O'Brien, 391 U.S. 367, 383, n. 30 (1968). The United States Supreme Court in Nixon v. Administrator of General Services, 433 U.S. 425 (1977) recently identified three tests to determine whether legislation survives a bill of attainder challenge: the historical test which is inapplicable here, the functional test which looks at whether the law furthers any nonpunitive legislative purpose, and the motivational test which assesses the legislative record for a legislative intent to punish.

Common to all analyses is a resolution of the critical issue of legislative intent to punish and/or effect of punishment. The legislative history surrounding the passage of the Act in general and the challenged provision in particular bears no evidence of a punitive intent directed towards plaintiff. Planned Parenthood was referred to by name on several occasions, both specifically and in a generic sense, and may have been the primary target of the exclusion for some legislators. However, the overriding objective was the desire not to fund abortions, or agencies which perform abortions, rather than a desire to punish Planned Parenthood for performing abortions or for offering abortion services. The court thus concludes that the challenged provision does not constitute punishment of Planned Parenthood.

Since neither the intent nor the effect of the legislation is to punish Planned Parenthood, the challenged provision is not constitutionally infirm as a bill of attainder.

Severability

Minn. Stat. § 645.20 provides:

> Unless there is a provision in the law that the provisions shall not be severable, the provisions

> of all laws shall be severable. If any provision of a law is found to be unconstitutional and void, the remaining provisions of the law shall remain valid, unless the court finds the valid provisions of the law are so essentially and inseparably connected with, and so dependent upon, the void provisions that the court cannot presume the legislature would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Pursuant to this provision, the court finds that Section 1, Subdivision 2 is severable from the balance of the Act. This was the position taken by all the parties.

Conclusion

The court having found that Section 1, Subdivision 2 of the Act is an unconstitutional denial of plaintiff's Fourteenth Amendment rights to equal protection, it will order that provision be declared unconstitutional and will enjoin defendants from enforcing it.

Upon the foregoing,

IT IS ORDERED That the preliminary injunction issued by this court on November 24, 1978, as modified December 13, 1978, be and hereby is dissolved and of no further force and effect.

IT IS FURTHER ORDERED That the clerk shall enter judgment as follows:

> Section 1, Subdivision 2 of Minn. Laws. 1978, Ch. 775 is unconstitutional and defendants are enjoined from enforcing the same.

DATED: February 23, 1979.

Donald D. Alsop
United States District Judge

FPI-SS-12-8-76

RECEIVED
FEB 26 1979
Attorney General's Office
Health Division

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General

DATE: March 7, 1979

FROM : Terry P. O'Brien
Special Assistant
Attorney General

PHONE: 6-5371

SUBJECT: Rules Relating to Family Planning
Special Projects Grants

Enclosed for your review are three files containing documents in support of the above-referenced rules. Although the very nature of issues presented with any set of family planning rules are controversial, there were no serious objections to the legality of the rules as finally adopted.

I believe the Report of the Hearing Examiner addresses concerns which were raised during the course of the proceedings. If you have any questions, please don't hesitate to contact me. Thank you.

TPO:ejb

Enclosures

Recd 3/7/79 TPO

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Terry P. O'Brien, do hereby declare that I have examined the proposed rules relating to Family Planning Special Project Grants and all related documents and that, based on such examinations and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Dated: March 7, 1979.

TERRY P. O'BRIEN
Special Assistant
Attorney General

RULES AS PROPOSED

Minnesota Department of Health

Personal Health Services

Rules as Proposed

Chapter 27 Part II: 7 MCAR § 1.457

Family Planning Special Project Grants

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The purpose and scope of these Rules is to prescribe requirements applicable to Family Planning Special Project Grants, to establish minimum standards for family planning services supported in whole or in part by family planning special project grant funds, and to provide a criteria for the review of family planning special project grant applications. An applicant is not required to provide all family planning service components to be eligible for funding. The following parts of 7 MCAR §§ 1.451-1.455 and no others also apply to family planning special project grants: 1.451 A, B, C3, D; 1.452 A, B, C, D1&2, E; 1.453 A, B2c&e; 1.454 A, B1, 5a, d, e, f, C; 1.455 B.

B. Definitions

"Approved Family Planning Methods" means agents and devices for the purpose of fertility regulation prescribed by a licensed physician, and other agents and devices for the purpose of fertility regulation including, but not limited to, spermicidal agents, diaphragms, condoms, natural family planning methods, sterilizations, and the diagnosis and treatment of infertility by a licensed physician, which can be paid for in whole or in part by family planning special project grant funds.

"Family Planning" means voluntary planning and action by individuals to attain or prevent pregnancy.

"Family Planning Services Components" means each of the public information, outreach, counseling, method, referral and follow-up services.

"Provide" means to directly supply or render or to pay for in whole or in part.

C. Content of Application

In lieu of the items a-h 7 MCAR § 1.452 D3, the application shall identify the geographic area to be served by the applicant and shall address the following information and requirements:

1. An inventory of existing family planning services provider agencies in the geographic area served by the applicant. The inventory shall include for each provider agency at least:
   a. names and addresses;
   b. the target population served, including total number served if available; if unavailable, estimates will be acceptable;
   c. family planning service components provided.
2. An assessment of unmet needs of the geographic area to be served by the applicant including, but not limited to, an identification of unavailable family planning service components and/or unserved or underserved population. A description of the method used in making the assessment shall be provided by the applicant.
3. A description of the family planning service components to be provided by the applicant. Procedures for referral and follow-up shall be incorporated into all family planning services available on an individual basis. Each component to be provided with family planning special project funds must meet the standards for that component described in 7 MCAR § 1.457 D. For each component to be provided, the application must describe:

a. the goals;

b. the population to be served (target population);

c. the specific objectives to be achieved during the funding period;

d. the methods by which each objective will be achieved;

e. the criteria to be used to evaluate the progress towards each objective;

f. a budget and budget justification;

g. a summary of the training and/or experience relevant to the component(s) to be provided of the person(s) providing the service.

4. A description of the linkages between the applicant and other family planning services in the geographic area including, but not limited to, plans for contracts and/or cooperative agreements with other organizations, agencies or individual providers. All funded projects must establish linkages to facilitate access to outreach, counseling, and other component services for service recipients.

5. A description of fees, if any, to be charged individuals for any family planning services. Proposed fees must be charged in accordance with a sliding fee for services and supplies based on the cost of such services or supplies and on the individual's ability to pay as determined by income, family size and other relevant factors. When applicable, the maximum fee charged shall not exceed the maximum reimbursement available from Title XIX, Medical Assistance. Services shall not be denied based on ability to pay as specified in "C8" herein.

6. Assurance that services will be provided in accordance with state and federal laws and rules.

7. A description of the policies and procedures that will be employed to maximize the use of third-party sources of funding.

8. Assurance that services will be provided without regard to age, sex, race, religion, marital status, income level, residence, parity, or presence or degree of disability except as otherwise required by law.

9. Assurance that arrangements shall be made for communication to take place in a language understood by the family planning service recipient.

10. When the applicant proposes to use family planning special project grant funds to supplant Community Health Services subsidy funds planned and budgeted for family planning services, the amount to be supplanted must be described in the application.

11. Assurance that the privacy of the service recipient will be maintained in accordance with law.

D. Family Planning Service Components, Definitions and Minimum Standards

All service components shall include information on family planning services available from the applicant. Service components to be provided by the applicant shall be defined as indicated and shall meet or exceed the following standards:

1. "Public Information" means specific activities designed to inform the general population about family planning and all family planning services available in the geographic area.

2. "Outreach" means specific activities designed to inform members of the target population about family planning and all the family

planning services available in the geographic area. Outreach activities shall include, but not be limited to, one-to-one or small group contacts with the target population.

Outreach shall be conducted at times and places convenient to the target population. Persons conducting outreach shall have training and/or experience in family planning services.

3. "Counseling" means utilization of non-directive interview techniques which enable individuals to voluntarily determine their participation in family planning services and their family planning method of choice, if any. When individuals are seeking to prevent pregnancy, counseling shall include the provision and explanation of factual information on all approved family planning pregnancy prevention methods. When individuals are seeking to attain pregnancy, counseling shall include the provision and explanation of factual information on infertility diagnosis and treatment and services for pregnant women available in the geographic area.

Counseling shall be available to any individual in the target population and shall be conducted at times and places convenient to the target population. Counseling shall include documentation that information required in Subd. 7 of MN Laws, 1978, Chapter 775 has been provided. Counseling shall be conducted by persons with training and/or experience in counseling and family planning services.

4. "Method" means the provision to a service recipient of her/his approved family planning method of choice. Provision of any approved family planning method shall include, but not be limited to:

a. Procedures which document that the service recipient participated in counseling prior to selecting a family planning method to prevent pregnancy;

b. Voluntary selection of the approved family planning method by the service recipient;

c. Information on the advisability of females obtaining a gynecological examination with Pap smear prior to initiating any family planning method;

d. Education on the use of the selected family planning method, including the risks and benefits of the method;

e. Medical/laboratory services prior to the provision of a family planning method when the selected method requires medical intervention for prescription, fitting, insertion or for surgical or diagnostic procedures. When the selected method does not require medical intervention, as described herein, the applicant shall encourage service recipients to obtain medical/laboratory services, but provision by the applicant is not required. Medical/laboratory services shall include:

   (1) Social and medical/surgical history with emphasis on the reproductive system;

   (2) Height, weight, and blood pressure measures;

   (3) Bimanual pelvic examination for females;

   (4) Breast examination and instruction on self-examination for females;

   (5) Hemoglobin or hematocrit;

   (6) Urinalysis for sugar and protein;

   (7) Pap smear.

In addition, when indicated by history or symptoms, the medical services shall include for both male and female as appropriate:

(8) Diagnosis and treatment of venereal disease;

(9) Diagnosis and treatment of vaginitis;

(10) Diagnosis of pregnancy.

Medical services shall be rendered by licensed physicians, or professional nurses with documentable training in gynecological care conducted under the supervision of a licensed physician, or nurse midwives certified by the American College of Nurse Midwifery, under the supervision of a physician. Laboratory tests shall be conducted by personnel trained to conduct such tests.

5. "Referral" means to provide, in writing, information to service recipients which enables them to participate in family planning.

6. "Follow-Up" means specific procedures of continuing care designed to encourage safe and consistent family planning and utilization of other needed services.

E. Criteria for Award of Family Planning Special Project Grants

Application which meets the requirements of law and these Rules shall be funded in accordance with the notice of availability as specified in 7 MCAR § 1.452 A and the following criteria:

1. Applications proposing to provide all family planning service components in counties with no in-county subsidized family planning service as of December 31, 1978, will be given priority above all other applications.

2. Quality and Content: In addition to 7 MCAR § 1.453 B 2 c&e, applications will be evaluated on the basis of:

a. The extent the funds will be used to meet unmet needs in the geographic area as identified in the application;

b. The extent the application proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant;

c. The extent the application proposes to coordinate family planning services with organizations, agencies and individual providers in the geographic area to be served.

3. Agency

When equivalent and competing applications are submitted for a geographic area, funding priorities will be in accordance with the following:

a. First priority will be given to local Boards of Health;

b. Second priority will be given to eligible non-profit corporations. Prior to submission to the Commissioner, the applicant shall submit the proposal to the local Board of Health for review and comment. Any comments of a local Board of Health shall be submitted to the Commissioner within 20 days of the date the proposal was mailed to the local Board.

When requests for family planning special project grant funds from eligible applicants exceeds the amount of such funds available, applications will be funded in accordance with the following:

1. Applications proposing to provide service in counties with no in-county family planning service as of December 31, 1978, will receive first priority. If the total of funding requests in these applications exceed funds available, all first priority requests will be multiplied by a ratio of total available funds to total funds requested under this priority.

2. Applications requesting funding of $20,000 or less will be given second priority. If the total funding requests in these applications exceeds the funds available for distribution, all second priority requests will be multiplied by the ratio of funds available minus funds awarded under priority one to funds requested minus funds available under priority one.

3. Remaining applications will be given third priority and receive an amount equal to their request multiplied by the ratio of total available funds minus funds awarded under priorities one and two to total requested funds minus funds awarded under priorities one and two.*

F. Use of State Funds Available for Family Planning Special Project Grants

1. Family planning special project grant funds awarded to applicant may be used to supplant Community Health Services subsidy funds planned and budgeted for family planning services in the 1979 or 1979 Community Health Services Plan.

2. Family planning special project grant funds may not be used to supplant any existing federal or local funds for family planning information or services.

3. Applicants are not required to match funds available under family planning special project grants.

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* Example of funding award under priority three:

Applicant's family planning special project funds request	$ 100,000
Total funds available for distribution	1,000,000
Total funds requested	1,500,000
Total funds distributed under priorities one and two	250,000

$$\text{Funds awarded to applicant} = \$100{,}000 \left(\frac{1{,}000{,}000 - 250{,}000}{1{,}500{,}000 - 250{,}000}\right)$$

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to Family Planning Special Project Grants (7 MCAR § 1.457)

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing in the Minnesota Department of Health Building, Minneapolis, on January 10, 1979, before Steve M. Mihalchick, Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. Ch. 15, to determine whether the proposed rules should be adopted.

Appearing for the Department of Health were Judy Kapuscinski, Grace Gumnit, and Ronald Campbell, M.D., Terry O'Brien, Special Assistant Attorney General, appeared on behalf of the Department. Thirty-one other persons attending the hearing signed the hearing register. The hearing continued until all interested persons had had an opportunity to participate.

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. Thereafter, the Commissioner of Health shall, if he proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Commissioner on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. The Commissioner will 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

PROCEDURAL REQUIREMENTS

1. On November 13, 1978, the Department filed the following documents with the Chief Hearing Examiner:

   (a) A copy of the proposed rules.
   (b) The Order for Hearing proposed to be issued.
   (c) The Notice of Hearing proposed to be issued.
   (d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On December 4, 1978, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 1188.

3. On December 7, 1978, 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 December 15, 1978, the Department filed the following documents:

(a) The Order for Hearing and authorizing resolution.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 2 State Register 2322. (June 25, 1978).
(h) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

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 January 24, 1979, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 14 calendar days following the hearing.

STATUTORY AUTHORITY - NEED AND REASONABLENESS OF PROPOSED RULES

6. The Examiner adopts the Statement of Need and Reasonableness and its Accompanying Justification (Dept.'s Ex. J) and the attached Supplemental Justification (Dept.'s Ex. N) as his Findings demonstrating the statutory authority for, need for and reasonableness of all sections of the proposed rule as modified by the Department at the hearing and in Ex. N. The Statement of Need and Reasonableness was filed 25 days prior to the hearing together with the Statement of Justification. The Justification was read in its entirety by the Department's representatives at the hearing. Those representatives also explained certain provisions of the rule beyond the Justification presented in the Statement of Need and responded to all questions and suggestions made by interested persons. On January 24, 1979, the Department filed the Supplemental Justification, modifying some of the proposed rules. Changes to the proposed rules (a) do not affect a class of persons not represented at the hearing; (b) do not go to a new subject matter of significant substantive effect; (c) do not make a major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing; and (d) do not result in a rule fundamentally different from that contained in the Notice of Hearing.

The changes do reflect the Department's consideration of errors and lack of clarity in the originally proposed rules and other deeper concerns raised by interested persons during the hearing. The following Findings note some of the most significant concerns raised.

§ 1.457A. - Purpose, Scope and Applicability.

7. In its Supplemental Justification, the Department acknowledged that there was a clerical error in the proposed rule which excluded 7 MCAR §§ 1.454 B.2., 3., and 4. from the list of sections of the rules relating to Community Health services Grants and Subsidies which are included as applying to Family Planning Special Projects Grants. These particular sections deal with records and reports and are very important for monitoring the grants. The Department therefore recommended that the reference

be changed to include 7 MCAR §§ 1.454 B.1. through 5.a. among those applying to these proposed rules and thus reflect the Department's intent.

8. Several comments objected to not including §§ 1.452 D.4. and 1.453 B.2.f. in the references. Those sections would require documentation of approval by the county board or city council and consideration of the findings of regional review agencies. The Human Life Alliance wanted to know why they were not included (Pub. Ex. 7). Rep. Niehaus called it absolutely unconscionable for the Hearing Examiner to try to remove all local control and eliminate regional review. (Pub. Ex. 8) Sen. Olhoft thought it was only appropriate to have local control and for the Commissioner to consider Regional Review Agency findings (Pub. Ex. 9). In a joint letter, eight other legislators urged the Hearing Examiner to put local review and approval back into the administration of Family Planning Services because, "It would be easy to see where the Department of Health would push family planning funds into an area when the /local/ decision-makers have already decided that it is not their choice." (Pub. Ex. 13). The Chairman of the West Central Regional Development Commission said local control was necessary for coordinated delivery of health services (Pub. Ex. 15).

In its Supplemental Justification, the Department stated that it agreed that regional review was reasonable and necessary, and for that reason had included the reference to § 1.453 A., which requires applicants to submit copies of the application to the Regional Development Commissions and appropriate Health System Agency for review and comment. The Examiner would note that § 1.457 E.3.b. also requires applicants other than local boards of health to submit copies to the local board of health for review and comment. Thus, the proposed rules strongly require local review and comment.

What the rules don't require is local approval. The Department's response in its Supplemental Justification was that approval by city councils or county boards relates only to Community Health Service Plans and not to family planning special project funds. The Department, when justifying giving priority to counties with no existing family-planning services, argued that such an approach was necessary to assure that counties with the greatest lack of family planning services components should receive the funding necessary to establish and maintain services. The same argument has some application here. Of course, the real answer for those counties which are worried about this lack of control is to establish their own program, with the elements they desire, and seek funding for it. They will receive first priority.

The Administrative Procedures Act does not provide any mechanism for forcing an agency to adopt a rule it doesn't want. Clearly, the Hearing Examiner can't do it; he can only say whether the agency has presented a reasonable justification for what it has proposed and make recommendations. The Department has presented a rationale for local review but not local veto that is not unreasonable. There are obviously differences of opinion among reasonable persons on this issue.

9. The Examiner notes a typographical error in this section as published in the State Register: the word "supply" should be "apply".

§ 1.457 B. - Definitions.

10. Much public concern, expressed both at the hearing and in written comments, was directed to the term "Approved Family Planning Methods" (T. 11, 14 and Pub. Exs. 2, 6, 7, 9). To some, it seemed the Department's definition was so open-ended that it was not actually a definition at all (Pub. Ex. 9). The Department, in its Supplemental Justification, acknowledged the public's concern and recommended two changes in the definition. First, that the word "approved" be deleted from the section heading, leaving it entitled instead "Family Planning Methods." Secondly, the Department recommended that the words "but not limited to" which preceded the list of methods in the proposed rule be stricken. These changes result in a clarification of the rules and should be adopted.

11. The Statement of Need and Reasonableness, in justification of the phrase "family planning methods" specified that "this definition excludes abortion as a family planning method." (Dept.'s Ex. J, p. 5). Moreover, the Department maintained, both at the hearing and in its Supplemental Justification, that inclusion of that statement in the rule itself is unnecessary since the rule applies only to pre-pregnancy services, thereby excluding abortion. The Department again, both at the hearing and in its Supplemental Justification, also stated that it has and will continue to distribute a copy of Minn. Stat. § 145.925 with each copy of the rules so that any potential grantee would know of the statutory restrictions regarding abortion.

There were several comments asking that the rules reflect the legislative intent regarding abortion manifest in Minn. Stat. § 145.925 (Pub. Exs. 2, 7, 8, 9, 13). Sen Olhoft stated:

> "I remain totally amazed that the proposed rules are totally silent on the issue of making abortion referrals. Lengthy debates, and delicately worded phrases, swirled around this issue during the entire progress of this legislation. I am astounded that no clear message is given to providers to guide their actions on this issue. In Subd. 1 of 1978, Mn. St. 145.925, we intentionally used the phrase 'pre-pregnancy family planning services.' We used the phrase pre-pregnancy to remove any doubt about upon the providers were to work with. (sic)
>
> "I am sure that you are aware that the Community Health Services Act states in the definition of 'Family Planning Services' that 'For purposes of Sections 145.911 to 145.922, family planning shall mean voluntary action by individuals to prevent or aid conception, but shall not include the performance, or make referrals for encouragement of voluntary termination of pregnancy.' That legislation also very clearly points out the legislative intent that family planning services should not include the funding, referral or recommendation of abortion.
>
> "Even in the Family Planning Services Act, there are strict prohibitions against these funds being dispensed by non-profit corporations which perform abortions.
>
> "A further admonition was provided to the Health Department in Subd. 4, which clearly instructed any counselor who advised an unemancipated minor, to obtain a sterilization, to notify the parent or guardian. Just as insurance, we added abortion in case any counselor unwittingly would advise such

a procedure, despite the general prohibition of making referrals. A similar stringent admonition is provided in Subd. 6 against coercing anyone to undergo an abortion or sterilization.

"As hearing examiner, I would urge you to remedy this loophole by adding language to the proposed rules which clearly advises the providers against funding, referring, recommending or coercing to undergo a sterilization or abortion. If you find it difficult to follow this suggestion, I would at least urge you to require a copy of the statutes to be sent to every applicant and eventual provider." (Pub. Ex. 9)

The Department is correct that it is not necessary to completely restate the statutes within the rules and that, therefore, the rules as proposed are not unreasonable. Nonetheless, even though the statute will be given effect on its own force, the strong concerns expressed in the law should not be completely ignored in the rules. The Examiner would recommend that a sentence be added to § 1.457 A., Purpose, Scope and Applicability, rather than § 1.457 B., Definitions, such as the following:

"Minn. Stat. § 145.925 contains provisions prohibiting funding of abortions, prohibiting funding of family planning services to unemancipated minors in school buildings, requiring notice to parents of unemancipated minors to whom abortion or sterilization is advised and prohibiting coercing anyone to undergo an abortion or sterilization."

Frankly, this proposal is not, technically, a rule, and if the Department adopts it, they may wish to label it as a "Comment" or "Note". It is, however, a piece of information so important to so many people that it should be published with the rules. Sending a copy of the statute along with every copy of the rules is insufficient because many people will be reading the rules as published in the Minnesota Code of Agency Rules (MCAR) and will not be asking for a copy from the Department.

§ 1.457 C. - Content of Application

12. Between the Statement of Need and Reasonableness and the Supplemental Justification, the Department has presented a reasonable basis for each of the portions of this rule.

There was particular concern expressed regarding the non-discrimination provisions of § 1.457 C.8. and its implications for providing family planning services to minors (T. 28-33 and Pub. Exs. 9, 10, 13, 14). The Human Life Alliance, Sen. Olhoft, Rep. Kempe, and the letter signed by eight other senators and representatives voiced concern that adolescents could be a target population of the grantee since they felt this was contrary to legislative intent. On the other hand, Sen. Staples, author of the bill in the Senate, indicated that the unmet need for family planning among teenagers should be given special consideration. At the hearing, K. C. Spencely from the Metro Community Health Consortium made observations similar to those expressed by Sen. Staples and stated that she felt teenagers ought to be a target population of this particular family planning grant (T. 33).

As the Department pointed out at the hearing, "The last line of the rule provides: 'Except as otherwise provided by law' so that any law would take precedent." (T. 29). The statute under which these rules are

being promulgated, Minn. Stat. § 145.925, imposes several requirements regarding participation of minors in family planning programs that must be considered along with this rule. Section 145.925, subd. 3, prohibits any family planning services from operating in an elementary or secondary school building and § 145.925, subd. 4, requires that parents be notified if an unemancipated minor is advised to undergo an abortion or sterilization.

The Hearing Examiner finds that the Department has presented a reasonable basis for this rule and that it is not contrary to any of the provisions of the statute.

§ 1.457 D. - Family Planning Service Components, Definitions and Minimum Standards.

13. Rules contained in this section are necessary and reasonable for the reasons stated in the Statement of Need and Reasonableness. The Department reasonably addressed concerns expressed by interested persons in its Supplemental Justification.

§ 1.457 E. - Criteria for Award of Family Planning Special Project Grants.

14. In its Supplemental Justification, the Department responded to indications from the hearing and written comments that this section, as proposed, was unclear regarding the Department's process for reviewing applications by making a number of changes.

The provisions of this section, so modified, are necessary and reasonable for the reasons set forth in the Statement of Need and Reasonableness and the Supplemental Justification.

§ 1.457 F. - Contingency Funding Priorities

15. At the hearing, several persons testified that the provisions of § 1.457 F. were confusing and seemingly contradictory to other provisions of these rules (T. 67, 76, 77, 80, 82, 83, 85). The Department responded to these comments in its Supplementary Justification by proposing wording changes in § 1.457 F. which greatly reduce the ambiguities of the proposed rule.

The rewording of this section results in a clarification of the rule, making it more understandable to potential grantees and more consistent with the Statement of Need and Reasonableness and Supplementary Justification. The Hearing Examiner finds that § 1.457 F., as modified, is necessary and reasonable for the reasons set forth in those two documents.

§ 11.457 G. - Use of State Funds Available for Family Planning Special Project Grants.

16. This section is necessary and reasonable for reasons given in the Statement of Need and Reasonableness. No public comments were specifically addressed to this section.

CONCLUSIONS

1. Due, timely and adequate notice of the hearing was properly served and published by the Department. All procedural requirements of law and rule have been fulfilled.

2. The Commissioner has demonstrated his statutory authority to adopt the proposed rules as modified.

3. The Commissioner has demonstrated the need for and reasonableness of all the proposed rules.

4. Modifications suggested by the Department in its Supplemental Justification and by the Examiner in this Report do not constitute substantial changes.

5. The recommendations made in the preceding Findings are not intended in any way to preclude the Commissioner from making his own non-substantial changes and improvements to the proposed rules.

RECOMMENDATION

The Hearing Examiner recommends that the rules be modified as suggested in the Findings and that, so modified, they be adopted.

Dated this 21st day of February, 1979.

STEVE M. MIHALCHICK
Hearing Examiner

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to Family Planning Special Project Grants (7 MCAR § 1.457)

FINDINGS OF FACT, CONCLUSIONS AND ORDER

The above-entitled matter came on for hearing at 9:30 a.m. on January 10, 1979, in Room 105 of the Minnesota Department of Health Building, 717 Delaware Street Southeast, before Steve M. Mihalchick, Hearing Examiner. On February 21, 1979, the Hearing Examiner dated and submitted his report.

Based upon all the testimony, exhibits and written comments, and the Report of the Hearing Examiner, the Commissioner now makes the following:

FINDINGS OF FACT

1. The Commissioner adopts, as his own, the Findings of Fact contained in the Report of the Hearing Examiner of February 21, 1979 (hereinafter the "Report"), said Report being fully incorporated into and made a part of these findings as if set forth by the Commissioner, except that the Commissioner does adopt additional findings of fact as noted herein below.

2. The Commissioner agrees with the Hearing Examiner's recommendation in Finding of Fact #11 of the Report that a sentence be added either by way of an amendment to the proposed 7 MCAR § 1.457A or attached as a "comment" or "note."

3. The Commissioner agrees with the Hearing Examiner that information already contained in Minn. Stat. § 144.925 (1978) was of such import to many people that a paraphrase of statutory language should be published with the rules.

4. In order to convey the full meaning of Minn. Stat. § 145.925, subd. 4 (1978) and to prevent any possible misunderstanding on the part of the public, the Commissioner finds that the exception delineated in Minn. Stat. § 145.925, subd. 4 (1978) should be referenced in any clarifying statement published with the rules.

5. In accordance with Findings 2 through 4, herein, the following statement shall be included with the rules as finally adopted:

> Minn. Stat. § 145.925 contains provisions prohibiting use of these funds for abortions, family planning services to unemancipated minors in school buildings, requiring notice to parents or guardians of unemancipated minors to whom abortion or sterilization is advised, except as provided in Minn. Stat. §§ 144.341 and .342, and prohibiting coercing anyone to undergo an abortion or sterilization.

6. The Commissioner finds that the inclusion of the statement referenced in Finding of Fact #5, herein, is reasonable and necessary.

CONCLUSIONS OF LAW

The Commissioner adopts, as his own, the conclusions contained in the Report, said conclusions being fully incorporated and made a part of the Commissioner's conclusions as if set forth by the Commissioner.

ORDER

The rules relating to Family Planning Special Project Grants and identified as 7 MCAR § 1.457 are found to be reasonable, necessary and supported by the evidence contained in the records, and are hereby approved and adopted pursuant to the authority vested in me in Minn. Stat. §§ 145.925, subd. 5, 144.12, subd. 1, and 145.912, subd. 3 (1978) except that said rule shall be modified in accordance with the non-substantial change as set forth in the Commissioner's Findings of Fact.

Dated: March 1, 1979

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

George R. Pettersen M.D.

GEORGE R. PETTERSEN, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

ORDER FOR HEARING

To effectively implement Minn. Laws 1978, ch. 775, Minn. Stat. §§ 145.918 (1976), 144.05 (1976), 144.12 (1976), and 144.065 (1976), the Minnesota Commissioner of Health deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in by the above-referenced statutes.

NOW, THEREFORE, IT IS ORDERED this ____ day of November, 1978, that a public hearing on the proposed rules captioned above be held in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Wednesday, January 10, 1979, commencing at 9:30 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

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

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Dept's Exhibit No. B

File No. ____

Date ____

RECEIVED
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OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (1977 Supp.), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Wednesday, January 10, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to _____, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-____, either before the hearing or within five (5) working days after the close of the hearing or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

Depts Exhibit No. C

File [illegible]

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

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to the Supervisor of the Family Planning Unit, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

NOTICE: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Laws 1978, ch. 775, Minn. Stat. §§ 145.918 (1976), 144.05 (1976), 144.12 (1976), and 144.065 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, § 11 as any individual:

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

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

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

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Dated: _____, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

_____

WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

STATEMENT OF NUMBER OF
PERSONS EXPECTED TO ATTEND
AND LENGTH OF HEARING

The number of persons expected to attend the hearing in the above-captioned matter is 100.

It is estimated that the length of the hearing will be eight hours.

Dated: November ____, 1978.

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Dept's Exhibit No. D

Filed

Ex 2

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

ORDER FOR HEARING

To effectively implement Minn. Laws 1978, ch. 775, Minn. Stat. §§ 145.918 (1976), 144.05 (1976), 144.12 (1976), and 144.065 (1976), the Minnesota Commissioner of Health deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in him by the above-referenced statutes.

NOW, THEREFORE, IT IS ORDERED this 15th day of November, 1978, that a public hearing on the proposed rules captioned above be held in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Wednesday, January 10, 1979, commencing at 9:30 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

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

STATE OF MINNESOTA
COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Ex 3.

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (1977 Supp.), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Wednesday, January 10, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Steve Mihalchick, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8112, either before the hearing or within five (5) working days after the close of the hearing or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

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

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to the Supervisor of the Family Planning Unit, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

NOTICE: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Laws 1978, ch. 775, Minn. Stat. §§ 145.918 (1976), 144.05 (1976), 144.12 (1976), and 144.065 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, § 11 as any individual:

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

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

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Dated: November 15, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Ex #4

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

STATEMENT OF NUMBER OF
PERSONS EXPECTED TO ATTEND
AND LENGTH OF HEARING

The number of persons expected to attend the hearing in the above-captioned matter is 100.

It is estimated that the length of the hearing will be eight hours.

Dated: November 15, 1978.

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Ex 6

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

NOTICE OF HEARING

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exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

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Dated: November 15, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

s / Warren R. Lawson, M.D.
WARREN R. LAWSON, M.D.
Commissioner of Health

Minnesota Department of Health

Personal Health Services

Rules as Proposed

Chapter 27 Part II: 7 MCAR § 1.457

Family Planning Special Project Grants

A. Purpose, Scope and Applicability

The purpose and scope of these Rules is to prescribe requirements applicable to Family Planning Special Project Grants, to establish minimum standards for family planning services supported in whole or in part by family planning special project grant funds, and to provide a criteria for the review of family planning special project grant applications. An applicant is not required to provide all family planning service components to be eligible for funding. The following parts of 7 MCAR §§ 1.451-1.455 and no others also apply to family planning special project grants: 1.451 A, B, C3, D; 1.452 A, B, C, D1&2, E; 1.453 A, B2c&e; 1.454 A, B1, 5a, d, e, f, C; 1.455 B.

B. Definitions

"Approved Family Planning Methods" means agents and devices for the purpose of fertility regulation prescribed by a licensed physician, and other agents and devices for the purpose of fertility regulation including, but not limited to, spermicidal agents, diaphragms, condoms, natural family planning methods, sterilizations, and the diagnosis and treatment of infertility by a licensed physician, which can be paid for in whole or in part by family planning special project grant funds.

"Family Planning" means voluntary planning and action by individuals to attain or prevent pregnancy.

"Family Planning Services Components" means each of the public information, outreach, counseling, method, referral and follow-up services.

"Provide" means to directly supply or render or to pay for in whole or in part.

C. Content of Application

In lieu of the items a-h 7 MCAR § 1.452 D3, the application shall identify the geographic area to be served by the applicant and shall address the following information and requirements:

1. An inventory of existing family planning services provider agencies in the geographic area served by the applicant. The inventory shall include for each provider agency at least:
   a. names and addresses;
   b. the target population served, including total number served if available; if unavailable, estimates will be acceptable;
   c. family planning service components provided.
2. An assessment of unmet needs of the geographic area to be served by the applicant including, but not limited to, an identification of unavailable family planning service components and/or unserved or underserved population. A description of the method used in making the assessment shall be provided by the applicant.
3. A description of the family planning service components to be provided by the applicant. Procedures for referral and follow-up shall be incorporated into all family planning services available on an individual basis. Each component to be provided with family planning special project funds must meet the standards for that component described in 7 MCAR § 1.457 D. For each component to be provided, the application must describe:

a. the goals;

b. the population to be served (target population);

c. the specific objectives to be achieved during the funding period;

d. the methods by which each objective will be achieved;

e. the criteria to be used to evaluate the progress towards each objective;

f. a budget and budget justification;

g. a summary of the training and/or experience relevant to the component(s) to be provided of the person(s) providing the service.

4. A description of the linkages between the applicant and other family planning services in the geographic area including, but not limited to, plans for contracts and/or cooperative agreements with other organizations, agencies or individual providers. All funded projects must establish linkages to facilitate access to outreach, counseling, and other component services for service recipients.

5. A description of fees, if any, to be charged individuals for any family planning services. Proposed fees must be charged in accordance with a sliding fee for services and supplies based on the cost of such services or supplies and on the individual's ability to pay as determined by income, family size and other relevant factors. When applicable, the maximum fee charged shall not exceed the maximum reimbursement available from Title XIX, Medical Assistance. Services shall not be denied based on ability to pay as specified in "C8" herein.

6. Assurance that services will be provided in accordance with state and federal laws and rules.

7. A description of the policies and procedures that will be employed to maximize the use of third-party sources of funding.

8. Assurance that services will be provided without regard to age, sex, race, religion, marital status, income level, residence, parity, or presence or degree of disability except as otherwise required by law.

9. Assurance that arrangements shall be made for communication to take place in a language understood by the family planning service recipient.

10. When the applicant proposes to use family planning special project grant funds to supplant Community Health Services subsidy funds planned and budgeted for family planning services, the amount to be supplanted must be described in the application.

11. Assurance that the privacy of the service recipient will be maintained in accordance with law.

D. Family Planning Service Components, Definitions and Minimum Standards

All service components shall include information on family planning services available from the applicant. Service components to be provided by the applicant shall be defined as indicated and shall meet or exceed the following standards:

1. "Public Information" means specific activities designed to inform the general population about family planning and all family planning services available in the geographic area.

2. "Outreach" means specific activities designed to inform members of the target population about family planning and all the family

planning services available in the geographic area. Outreach activities shall include, but not be limited to, one-to-one or small group contacts with the target population.

Outreach shall be conducted at times and places convenient to the target population. Persons conducting outreach shall have training and/or experience in family planning services.

3. "Counseling" means utilization of non-directive interview techniques which enable individuals to voluntarily determine their participation in family planning services and their family planning method of choice, if any. When individuals are seeking to prevent pregnancy, counseling shall include the provision and explanation of factual information on all approved family planning pregnancy prevention methods. When individuals are seeking to attain pregnancy, counseling shall include the provision and explanation of factual information on infertility diagnosis and treatment and services for pregnant women available in the geographic area.

Counseling shall be available to any individual in the target population and shall be conducted at times and places convenient to the target population. Counseling shall include documentation that information required in Subd. 7 of MN Laws, 1978, Chapter 775 has been provided. Counseling shall be conducted by persons with training and/or experience in counseling and family planning services.

4. "Method" means the provision to a service recipient of her/his approved family planning method of choice. Provision of any approved family planning method shall include, but not be limited to:

a. Procedures which document that the service recipient participated in counseling prior to selecting a family planning method to prevent pregnancy;

b. Voluntary selection of the approved family planning method by the service recipient;

c. Information on the advisability of females obtaining a gynecological examination with Pap smear prior to initiating any family planning method;

d. Education on the use of the selected family planning method, including the risks and benefits of the method;

e. Medical/laboratory services prior to the provision of a family planning method when the selected method requires medical intervention for prescription, fitting, insertion or for surgical or diagnostic procedures. When the selected method does not require medical intervention, as described herein, the applicant shall encourage service recipients to obtain medical/laboratory services, but provision by the applicant is not required. Medical/laboratory services shall include:

   (1) Social and medical/surgical history with emphasis on the reproductive system;

   (2) Height, weight, and blood pressure measures;

   (3) Bimanual pelvic examination for females;

   (4) Breast examination and instruction on self-examination for females;

   (5) Hemoglobin or hematocrit;

   (6) Urinalysis for sugar and protein;

   (7) Pap smear.

In addition, when indicated by history or symptoms, the medical services shall include for both male and female as appropriate:

(8) Diagnosis and treatment of venereal disease;

(9) Diagnosis and treatment of vaginitis;

(10) Diagnosis of pregnancy.

Medical services shall be rendered by licensed physicians, or professional nurses with documentable training in gynecological care conducted under the supervision of a licensed physician, or nurse midwives certified by the American College of Nurse Midwifery, under the supervision of a physician. Laboratory tests shall be conducted by personnel trained to conduct such tests.

5. "Referral" means to provide, in writing, information to service recipients which enables them to participate in family planning.

6. "Follow-Up" means specific procedures of continuing care designed to encourage safe and consistent family planning and utilization of other needed services.

E. Criteria for Award of Family Planning Special Project Grants

Application which meets the requirements of law and these Rules shall be funded in accordance with the notice of availability as specified in 7 MCAR § 1.452 A and the following criteria:

1. Applications proposing to provide all family planning service components in counties with no in-county subsidized family planning service as of December 31, 1978, will be given priority above all other applications.

2. Quality and Content: In addition to 7 MCAR § 1.453 B 2 c&e, applications will be evaluated on the basis of:

a. The extent the funds will be used to meet unmet needs in the geographic area as identified in the application;

b. The extent the application proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant;

c. The extent the application proposes to coordinate family planning services with organizations, agencies and individual providers in the geographic area to be served.

3. Agency

When equivalent and competing applications are submitted for a geographic area, funding priorities will be in accordance with the following:

a. First priority will be given to local Boards of Health;

b. Second priority will be given to eligible non-profit corporations. Prior to submission to the Commissioner, the applicant shall submit the proposal to the local Board of Health for review and comment. Any comments of a local Board of Health shall be submitted to the Commissioner within 20 days of the date the proposal was mailed to the local Board.

When requests for family planning special project grant funds from eligible applicants exceeds the amount of such funds available, applications will be funded in accordance with the following:

1. Applications proposing to provide service in counties with no in-county family planning service as of December 31, 1978, will receive first priority. If the total of funding requests in these applications exceed funds available, all first priority requests will be multiplied by a ratio of total available funds to total funds requested under this priority.

2. Applications requesting funding of $20,000 or less will be given second priority. If the total funding requests in these applications exceeds the funds available for distribution, all second priority requests will be multiplied by the ratio of funds available minus funds awarded under priority one to funds requested minus funds available under priority one.

3. Remaining applications will be given third priority and receive an amount equal to their request multiplied by the ratio of total available funds minus funds awarded under priorities one and two to total requested funds minus funds awarded under priorities one and two.*

F. Use of State Funds Available for Family Planning Special Project Grants

1. Family planning special project grant funds awarded to applicant may be used to supplant Community Health Services Subsidy funds planned and budgeted for family planning services in the 1979 or 1979 Community Health Services Plan.

2. Family planning special project grant funds may not be used to supplant any existing federal or local funds for family planning information or services.

3. Applicants are not required to match funds available under family planning special project grants.

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* Example of funding award under priority three:

Applicant's family planning special project funds request	$ 100,000
Total funds available for distribution	1,000,000
Total funds requested	1,500,000
Total funds distributed under priorities one and two	250,000

$$\text{Funds awarded to applicant} = \$100{,}000 \left(\frac{1{,}000{,}000 - 250{,}000}{1{,}500{,}000 - 250{,}000}\right)$$

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Health Personal Health Services

Proposed Rules Relating to Family Planning Special Project Grants

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Wednesday, January 10, 1979, commencing at 9:30 a.m.

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The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Laws of 1978, ch. 775, Minn. Stat. §§ 145.918 (1976), 144.05 (1976), 144.12 (1976), and 144.065 (1976).

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

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Dept's Exhibit No. M

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November 15, 1978

Warren R. Lawson, M.D.
Commissioner of Health

Rules as Proposed

Chapter 27 Part II

7 MCAR § 1.457 Family Planning Special Project Grants.

A. Purpose, scope and applicability. The purpose and scope of these Rules is to prescribe requirements applicable to Family Planning Special Project Grants, to establish minimum standards for family planning services supported in whole or in part by family planning special project grant funds, and to provide a criterion for the review of family planning special project grant applications. An applicant is not required to provide all family planning service components to be eligible for funding. The following parts of 7 MCAR §§ 1.451-1.455 and no others also supply to family planning special project grants: 1.451 A., B., C.3., D.; 1.452 A., B., C., D.1. and 2., E.; 1.453 A., B.2.c.e.; 1.454 A., B.1., 5.a., d., e., f., C.; 1.455 B.

B. Definitions.

1. "Approved family planning methods" means agents and devices for the purpose of fertility regulation prescribed by a licensed physician, and other agents and devices for the purpose of fertility regulation including, but not limited to, spermicidal agents, diaphragms, condoms, natural family planning methods, sterilizations, and the diagnosis and treatment of infertility by a licensed physician, which can be paid for in whole or in part by family planning special project grant funds.

2. "Family planning" means voluntary planning and action by individuals to attain or prevent pregnancy.

3. "Family planning services components" means each of the public information, outreach, counseling, method, referral and follow-up services.

4. "Provide" means to directly supply or render or to pay for in whole or in part.

C. Content of application. In lieu of the items 7 MCAR § 1.452 D.3.a.-h., the application shall identify the geographic area to be served by the applicant and shall address the following information and requirements:

1. An inventory of existing family planning services provider agencies in the geographic area served by the applicant. The inventory shall include for each provider agency at least:

a. names and addresses;

b. the target population served, including total number served if available; if unavailable, estimates will be acceptable;

c. family planning service components provided.

2. An assessment of unmet needs of the geographic area to be served by the applicant including, but not limited to, an identification of unavailable family planning service components and/or unserved or underserved population. A description of the method used in making the assessment shall be provided by the applicant.

3. A description of the family planning service components to be provided by the applicant. Procedures for referral and follow-up shall be incorporated into all family planning services available on an individual basis. Each component to be provided with family planning special project funds must meet the standards for that component described in 7 MCAR § 1.457 D. For each component to be provided, the application must describe:

a. the goals;

b. the population to be served (target population);

c. the specific objectives to be achieved during the funding period;

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d. the methods by which each objective will be achieved;

e. the criteria to be used to evaluate the progress towards each objective;

f. a budget and budget justification;

g. a summary of the training and/or experience relevant to the component(s) to be provided of the person(s) providing the service.

4. A description of the linkages between the applicant and other family planning services in the geographic area including, but not limited to, plans for contracts and/or cooperative agreements with other organizations, agencies or individual providers. All funded projects must establish linkages to facilitate access to outreach, counseling, and other component services for service recipients.

5. A description of fees, if any, to be charged individuals for any family planning services. Proposed fees must be charged in accordance with a sliding fee for services and supplies based on the cost of such services or supplies and on the individual's ability to pay as determined by income, family size and other relevant factors. When applicable, the maximum fee charged shall not exceed the maximum reimbursement available from Title XIX, Medical Assistance. Services shall not be denied based on ability to pay as specified in C.8. herein.

6. Assurance that services will be provided in accordance with state and federal laws and rules.

7. A description of the policies and procedures that will be employed to maximize the use of third-party sources of funding.

8. Assurance that services will be provided without regard to age, sex, race, religion, marital status, income level, residence, parity, or presence or degree of disability except as otherwise required by law.

9. Assurance that arrangements shall be made for communication to take place in a language understood by the family planning service recipient.

10. When the applicant proposes to use family planning special project grant funds to supplant Community Health Services subsidy funds planned and budgeted for family planning services, the amount to be supplanted must be described in the application.

11. Assurance that the privacy of the service recipient will be maintained in accordance with law.

D. Family planning service components, definitions and minimum standards. All service components shall include information on family planning services available from the applicant. Service components to be provided by the applicant shall be defined as indicated and shall meet or exceed the following standards:

1. "Public information" means specific activities designed to inform the general population about family planning and all family planning services available in the geographic area.

2. "Outreach" means specific activities designed to inform members of the target population about family planning and all the family planning services available in the geographic area. Outreach activities shall include, but not be limited to, one-to-one or small group contacts with the target population.

Outreach shall be conducted at times and places convenient to the target population. Persons conducting outreach shall have training and/or experience in family planning services.

3. "Counseling" means utilization of non-directive interview techniques which enable individuals to voluntarily determine their participation in family planning services and their family planning method of choice, if any. When individuals are seeking to prevent pregnancy, counseling shall include the provision and explanation of factual information on all approved family planning pregnancy prevention methods. When individuals are seeking to attain pregnancy, counseling shall include the provision and explanation of factual information on infertility diagnosis and treatment and services for pregnant women available in the geographic area.

Counseling shall be available to any individual in the target population and shall be conducted at times and places convenient to the target population. Counseling shall include documentation that information required in Subd. 7 of Minn. Laws of 1978, ch. 775 has been provided. Counseling shall be conducted by persons with training and/or experience in counseling and family planning services.

4. "Method" means the provision to a service recipient of her/his approved family planning method of choice. Provision of any approved family planning method shall include, but not be limited to:

a. Procedures which document that the service recipient participated in counseling prior to selecting a family planning method to prevent pregnancy;

b. Voluntary selection of the approved family planning method by the service recipient;

c. Information on the advisability of females ob-

taining a gynecological examination with Pap smear prior to initiating any family planning method;

d. Education on the use of the selected family planning method, including the risks and benefits of the method;

e. Medical/laboratory services prior to the provision of a family planning method when the selected method requires medical intervention for prescription, fitting, insertion or for surgical or diagnostic procedures. When the selected method does not require medical intervention, as described herein, the applicant shall encourage service recipients to obtain medical/laboratory services, but provision by the applicant is not required. Medical/laboratory services shall include:

(1) Social and medical/surgical history with emphasis on the reproductive system;

(2) Height, weight, and blood pressure measures;

(3) Bimanual pelvic examination for females;

(4) Breast examination and instruction on self-examination for females;

(5) Hemoglobin or hematocrit;

(6) Urinalysis for sugar and protein;

(7) Pap smear.

In addition, when indicated by history or symptoms, the medical services shall include for both male and female as appropriate:

(8) Diagnosis and treatment of venereal disease;

(9) Diagnosis and treatment of vaginitis;

(10) Diagnosis of pregnancy.

Medical services shall be rendered by licensed physicians, or professional nurses with documentable training in gynecological care conducted under the supervision of a licensed physician, or nurse midwives certified by the American College of Nurse Midwifery, under the supervision of a physician. Laboratory tests shall be conducted by personnel trained to conduct such tests.

5. "Referral" means to provide, in writing, information to service recipients which enables them to participate in family planning.

6. "Follow-up" means specific procedures of continuing care designed to encourage safe and consistent family planning and utilization of other needed services.

E. Criteria for award of Family Planning Special Project Grants. Application which meets the requirements of law and these Rules shall be funded in accordance with the notice of availability as specified in 7 MCAR § 1.452 A. and the following criteria:

1. Applications proposing to provide all family planning service components in counties with no in-county subsidized family planning service as of December 31, 1978, will be given priority above all other applications.

2. Quality and content. In addition to 7 MCAR § 1.453 B.2.c. and e., applications will be evaluated on the basis of:

a. The extent the funds will be used to meet unmet needs in the geographic area as identified in the application;

b. The extent the application proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant;

c. The extent the application proposes to coordinate family planning services with organizations, agencies and individual providers in the geographic area to be served.

3. Agency. When equivalent and competing applications are submitted for a geographic area, funding priorities will be in accordance with the following:

a. First priority will be given to local Boards of Health;

b. Second priority will be given to eligible nonprofit corporations. Prior to submission to the Commissioner, the applicant shall submit the proposal to the local Board of Health for review and comment. Any comments of a local Board of Health shall be submitted to the Commissioner within 20 days of the date the proposal was mailed to the local Board.

When requests for family planning special project grant funds from eligible applicants exceeds the amount of such funds available, applications will be funded in accordance with the following:

1. Applications proposing to provide service in coun-

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ties with no in-county family planning service as of December 31, 1978, will receive first priority. If the total of funding requests in these applications exceed funds available, all first priority requests will be multiplied by a ratio of total available funds to total funds requested under this priority.

2. Applications requesting funding of $20,000 or less will be given second priority. If the total funding requests in these applications exceeds the funds available for distribution, all second priority requests will be multiplied by the ratio of funds available minus funds awarded under priority one to funds requested minus funds available under priority one.

3. Remaining applications will be given third priority and receive an amount equal to their request multiplied by the ratio of total available funds minus funds awarded under priorities one and two to total requested funds minus funds awarded under priorities one and two.*

F. Use of state funds available for Family Planning Special Project Grants.

1. Family planning special project grant funds awarded to applicant may be used to supplant Community Health Services subsidy funds planned and budgeted for family planning services in the 1978 or 1979 Community Health Services Plan.

2. Family planning special project grant funds may not be used to supplant any existing federal or local funds for family planning information or services.

3. Applicants are not required to match funds available under family planning special project grants.

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*Example of funding award under priority three:

Applicant's family planning special project funds request	$ 100,000
Total funds available for distribution	1,000,000
Total funds requested	1,500,000
Total funds distributed under priorities one and two	250,000

$$\text{Funds awarded to applicant} = \$100{,}000 \left(\frac{1{,}000{,}000\text{-}250{,}000}{1{,}500{,}000\text{-}250{,}000} \right)$$

State Board of Electricity

Proposed Rule Regarding Contractors Licenses, Definition of On-the-job Supervision, License Examination and Renewal Fees, Apprentice Electrician Registration and Reinstatement of Contractors Licenses

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in room 300 at 1745 University Avenue, St. Paul, Minnesota, on January 17, 1979 at 9:30 a.m. and continuing until all representatives of associations or interested groups or persons have had an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. 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, Room 300, St. Paul, Minnesota 55104 (612) 296-8108, the Hearing Examiner appointed to hear this matter either before the hearing or within five (5) working days after the close of the hearing. The Hearing Examiner may extend the time for receipt of written comments for a period not to exceed twenty (20) calendar days from the date of the hearing.

The rule proposed for adoption, if adopted, would: 1. limit a Master from being employed by more than one electrical contractor at the same time. 2. Require additional business information before contractor's license is issued. 3. Define personal on-the-job supervision. 4. Set examination and renewal fees for all classes of licenses. 5. Establish an Apprentice Electrician Registration. 6. Set a reinstatement cost for electrical contractors who let license lapse for statutory deficiencies.

The proposed rule and amendments are attached hereto. One free copy of the proposed rules in their entirety may be obtained by writing to Mr. C. B. Joriman, Executive Secretary, State Board of Electricity, 1954 University Avenue, St. Paul, Minnesota 55104. Additional copies of the rules will be available at the door on the day of the hearing.

The rule and amendments are proposed pursuant to the authority vested in the Board of Electricity by the provisions of Minn. Stat. § 326.241.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

AFFIDAVIT OF RECEIPT
OF THE SECRETARY OF
STATE'S LIST

Judi Kapuscinski, being first duly sworn upon oath, deposes and says:

1. The s he is an employee of the Minnesota Commissioner of Health.

2. That on the 29th day of November, 1978, s he called the Minnesota Secretary of State's office 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 or amendments thereto pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.).

3. That on the 1st day of December, 1978, in response to the above request, the Secretary of State provided h er with such a list, a photocopy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Judi A. Kapuscinski

Subscribed and sworn to before me
this 1st day of December, 1978.

Marie B. Tromiczak

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

Ex 8

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

CERTIFICATE

I hereby certify that the 585 general labels and 9 page list for the Minnesota Commissioner of Health, all of which are attached and made a part hereof, constitute the complete lists of persons, associations, and other interested groups who as of 9:40 o'clock A.m., this 15th day of December, 197__, have requested, pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.), that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules and amendments thereto on the subject captioned above.

SECRETARY OF STATE

JOAN ANDERSON GROWE

By Joan Anderson Growe
Deputy

Affd Mail
Ex #9

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of Proposed Rules
Relating to Family Planning
Special Project Grants

AFFIDAVIT
OF MAILING

Judi Kapuscinski, being first duly sworn, deposes and says:

That on the 7 day of December, 1978, at the City of Minneapolis, County of Hennepin, State of Minnesota, She served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of the Secretary of State attached and made a part hereof as Exhibit A, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof, as well as to all members of the Minnesota Legislature as of the date of mailing.

Judi A Kapuscinski

Subscribed and sworn to before
me this 7th day of December, 1978.

Susan Osman

SUSAN OSMAN
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
My Comm. Expires Sept. 21, 1984

JUSTIFICATION OF THE PROPOSED RULES RELATING TO
FAMILY PLANNING SPECIAL PROJECT GRANTS

7 MCAR § 1.457

7 MCAR § 1.457 A. Purpose, Scope and Applicability

This section states the purpose of these Rules which is identification of the criteria by which the Minnesota Department of Health will approve or disapprove proposals for Family Planning Special Project Grant funds and identification of requirements for approved grantees and the minimum standards for services provided in whole or in part by the grant funds. The section also informs potential applicants that they are not required to provide all family planning service components in order to be eligible for funding and indicates those specific sections of 7 MCAR §§ 1.451 - 1.455 which apply to Family Planning Special Project Grants.

This section is necessary so that all potential applicants and other concerned persons and agencies have a clear understanding of the purpose of these Rules and their applicability to the Minnesota Department of Health and potential or approved grantees.

It is reasonable to reference sections of 7 MCAR §§ 1.451 - 1.455 in order to avoid duplication of procedural requirements for grant applications previously established by the Minnesota Department of Health.

The authority to promulgate these Rules resides in MN Laws 1978, Chapter 775, Subd. 5.

7 MCAR § 1.457 B. Definition

This section provides definitions for four separate terms used in these Rules. These definitions, discussed individually below, are necessary to effect a uniform interpretation of these Rules and to avoid uncertainty and ambiguity in utilization of these Rules.

1. Approved Family Planning Methods

   This definition indicates those gneeric methods of fertility regulation which can be paid for in whole or in part with Family Planning Special Project Grant funds. This definition excludes abortion as a family planning method. This definition is necessary to clarify those portions of the Rules which make reference to "approved family planning methods".

2. Family Planning

   This definition provides the overall purpose of the service components which can be funded with Family Planning Special Project Grant funds. This definition is necessary to clarify those portions of these Rules which refer to "family planning".

3. Family Planning Service Components

This definition lists the specific categories of services which make up the broader category of family planning services. This definition is needed to clarify those portions of these Rules which refer to "components".

4. Provide

This definition defines what involvement in service is necessary for an applicant to be considered as providing a family planning service component. This definition is needed to clarify those portions of these Rules which relate to provision of family planning services with Family Planning Special Project Grant funds.

7 MCAR § 1.457 C. Content of Application

Section C describes the minimum information which must be submitted by an applicant in a proposal to the Minnesota Department of Health for Family Planning Special Project Grant funds.

It is reasonable that this section be substituted for the requirements of 7 MCAR § 1.452 D3. This latter Rule is quite general to allow for description of the wide array of public health services authorized by the Community Health Services Act to which 7 MCAR § 1.452 D3 applies. The Family Planning Special Project Grant funds, however, can be used only for one specific public health service. Accordingly, the application for these funds requires more specificity related to this specific service than would be obtained through 7 MCAR § 1.452 D3.

It is reasonable and necessary to require a minimum of information to assure consistent review of competing proposals. The kinds of information requested, including area to be served, are necessary so that the Minnesota Department of Health has adequate data for evaluating each application in keeping with review criteria identified in Section E of these Rules and for selecting for approval those applications which propose provision of services to areas most in need. The 11 separate required items, which replace requirements of 7 MCAR § 1.452 D3, are discussed below.

7 MCAR § 1.457 C1

It is reasonable and necessary to require an applicant to provide an inventory of existing family planning services in the geographic area to be served, including specific information on those services, in order to assure that Family Planning Special Project Grant funds are being used to establish coordinated, expanded services rather than competing, duplicative services.

It is reasonable and necessary that each applicant obtain and record in its application three specific items of information required in these Rules to assure that each applicant has the information necessary to enable appropriate referrals for family planning services the applicant does not provide.

Applicants are not prohibited from working collaboratively on an inventory. Therefore, this requirement does not necessitate duplication nor does it pose a barrier to applicants proposing services in a large geographic area.

7 MCAR § 1.457 C2

It is reasonable and necessary to require an assessment of needs in the geographic area to be served so that the applicant can engage in long range planning to meet the needs in its area and so that the Minnesota Department of Health is informed of the total unmet needs of all the project areas in order to plan its future budget requests in keeping with identified needs. It is reasonable and necessary that the applicant indicate the method of assessment so that the Minnesota Department of Health and other concerned agencies can be assured that methodology was used which assures accurate results. Since communities and agencies may have established means of assessing needs, it is reasonable for the Minnesota Department of Health to not dictate the method of assessment.

7 MCAR § 1.457 C3

It is reasonable to require that the service components to be provided be identified since an applicant is not required to provide all family planning service components. A description of each component is necessary to assure that the applicant has a written plan for its services which is reviewed by the Minnesota Department of Health and determined to be in keeping with the minimum standards of these Rules so that the public may be assured of the quality of the services.

It is reasonable and necessary to require that family planning service components provided with state funds meet minimum standards to assure that service recipients have access to a minimum level of service of acceptable quality within each component they desire to receive. Minimum standards acknowledge the difference in local capacities for services and allow local flexibility above the required minimum while maintaining base quality services statewide. Minimum standards do not prohibit any applicant from proposing services which go beyond the standards, but do prohibit applicants from proposing services which would not meet the test of minimal quality, preventive health services as defined in 7 MCAR § 1.457 D.

Since an applicant is not required to provide all family planning service components, but availability and accessibility of all components is in the best interest of Minnesota residents, it is reasonable and necessary to require that each applicant proposing services to individuals have procedures for referral and follow-up.

It is reasonable to specify that the seven separate items addressed below be described for each component to be provided in order that the Minnesota Department of Health have a comparable presentation of information with which to evaluate competing applications.

7 MCAR §§ 1.457 C3a

It is reasonable and necessary that the applicant identify the goal for each component so that the Minnesota Department of Health and other concerned agencies can ascertain what the applicant plans to achieve.

7 MCAR § 1.457 C3b

It is reasonable and necessary to require an applicant to identify its target population for each component for Minnesota Department of Health review so that the Department can know who is to be served and assess the probable effectiveness of the proposed program relative to this group.

Family planning services can be utilized by a broad spectrum of individuals, but not all individuals within a project area will require all services. The applicant may wish to establish part of the population as priority for services. The Department's assessment of the probable effectiveness of each proposed program will be influenced by the description of the way the services are tailored to the needs of the target population.

The Department will also be reviewing this information to assure that limited state funds are used to expand services and to provide services to individuals who are unserved or underserved as identified by the applicant.

7 MCAR § 1.457 C3c

It is reasonable and necessary to require that specific objectives to be achieved in a funding period be identified by the applicant so that there will be means for both the Minnesota Department of Health and the applicant to monitor progress toward the stated goal and so that both agencies can be accountable for the use of state funds.

7 MCAR § 1.457 C3d

It is reasonable and necessary to require each applicant to describe the method to be used to achieve each objective in order that appropriate technical assistance can be offered by the Minnesota Department of Health to assist the applicant in meeting the proposed objectives and assuring quality family planning services to Minnesota residents.

7 MCAR § 1.457 C3e

It is reasonable and necessary to require each applicant to indicate the critiera to be used to evaluate the progress towards each objective in order that there be a written plan whereby the applicant and the Minnesota Department of Health can monitor progress toward each objective and technical assistance needs can be identified and addressed as early as feasible.

7 MCAR § 1.457 C3f

It is reasonable and necessary to require an applicant to submit a budget and budget justification to assure that family planning special project grant funds to be expended will be used in an efficient manner for the purpose and intent for which they were appropriated.

The budget provides a summary of the proposed use of state funds while the budget justification provides the specificity necessary for adequate fiscal accountability.

7 MCAR § 1.457 C3g

It is reasonable and necessary to require each applicant to summarize the training and/or experience of persons providing each family planning service component in order to assess the capabilities of personnel currently providing family planning services in Minnesota and assist in defining family planning training needs of professionals and para-professionals so that quality care can be assured.

7 MCAR § 1.457 C4

It is reasonable and necessary to require each applicant to establish and describe, for the Minnesota Department of Health review, its linkages with other family planning services providers in its geographic area in order to assure that family planning service components not provided by the applicant are available to the service recipient.

7 MCAR § 1.457 C5

It is reasonable and necessary to require that an applicant describe its fees, if any, to assure that fees do not form a barrier to service accessibility and to assure maximum efficient utilization of limited funds. A sliding scale basis enables the applicant to receive reimbursement for services and supplies from service recipients who are able to pay or from third-party reimbursers. A sliding scale, which considers income, family size, and other relevant factors, assures that those persons who are unable to pay are not denied services. The use of Title XIX, Medical Assistance, as a guidepost for maximum fees, assures an objective statewide standard for certain family planning services regardless of provider. For service components for which there is no Title XIX reimbursement and hence no maximum charge established, and for which the applicant does plan to charge fees, disclosure of the fee scale to the Minnesota Department of Health enables it to evaluate these fees to assure they are not a barrier to service.

It is reasonable to not require that fees be charged in order to maintain local decision making regarding the ability of the target population to pay for services and the extent to which fees will form a barrier to service.

7 MCAR § 1.457 C6

It is reasonable and necessary to require assurance that services provided with Family Planning Special Project Grant funds meet state and federal laws and rules to assure quality of services and lawful use of the funds.

7 MCAR § 1.457 C7

It is reasonable and necessary to require a description of procedures to maximize the use of third-party sources of funding since state Family Planning Special Project Grant funds are limited and cannot fully meet the family planning service needs of Minnesota residents.

There are third-party funds for reimbursement of family planning services from Titles XIX and XX of the Social Security Act and from private insurance companies. These funds can pay for medical services which are the most costly of the family planning service components. Maximizing use of third-party sources of reimbursement, whenever possible, enables Family Planning Special Project Grant funds to be used for the outreach, counseling, public information, referral, and follow-up and non-medical family planning services which may not have other sources of funding available. This is in keeping with the information provided to the Minnesota Legislature during its 1978 session when Family Planning Special Project Grant funds were appropriated.

7 MCAR § 1.457 C8

It is reasonable and necessary to require assurance that each applicant provide services without regard to age, sex, race, religion, marital status, income level, residence, parity or presence or degree of disability in order that all individuals desiring family planning services may have access to them. Unplanned pregnancies occur in all socio-economic strata and affect the lives of both males and females. Of particular concern is the sexually active adolescent. In this age group, the number of unplanned pregnancies has been significantly increasing in recent years. In order to reduce the number of unplanned pregnancies and their impact on all citizens, it is reasonable and necessary that public funds be available in a non-discriminatory manner.

7 MCAR § 1.457 C9

It is reasonable and necessary to require each applicant to assure that arrangements be made for communication to take place in a language understood by the family planning service recipient in order that services are accessible to all persons desiring these services. It is reasonable and necessary to require that a language understood by the family planning service recipient be used in order to assure that the service recipient is able to make an informed choice regarding family planning services and selection of family planning methods. It is not required that providers have persons on site who speak all languages. The requirement is that a family planning provider assist an individual in receiving services in a language understood by her or him.

7 MCAR § 1.457 C10

It is reasonable and necessary to require that when an applicant proposes to supplant Community Health Services subisdy funds with Family Planning Special Project Grant funds, the amount to be supplanted be described in the application in order that the Minnesota Department of Health can assess the amount of supplantation and make management decisions for adequate accountability of Family Planning Special Project Grant funds, as well as Community Health Services subsidy funds. It is necessary to know the amount of subsidy funds to be supplanted by Family Planning Special Project Grant funds in order to evaluate the degree of expansion of family planning services in the geographic area to be served.

7 MCAR § 1.457 C11

It is reasonable and necessary to require that each applicant assure that the privacy of the service recipient will be maintained in accordance with the law in order to enable each service recipient to comfortably discuss all factors which will influence her or his voluntary selection of family planning method and/or selection of family planning provider.

7 MCAR § 1.457 D

This section of these Rules provides definitions and minimum standards for family planning service components.

It is reasonable and necessary to define each family planning service component to avoid ambiguity. The six family planning service components, discussed separately below, are based upon federal programs. The two most obvious areas of variance from the federal program standards are the combining of an educational component into the counseling component in these Rules and the modification of the federal medical/laboratories services component into a "method" component. It is reasonable and necessary to promulgate these variances so that: education and counseling are not separated by time allowing for the most effective informed decision making by service recipients; family planning methods, including natural family planning methods, can be provided by existing family planning programs without significant modification of present procedures. Specifically, the "method" component permits an applicant to provide natural family planning, foam and condom methods without also being required to provide medical services.

It is reasonable and necessary to prescribe minimum standards for family planning service components provided with state funds to assure that service recipients have access to a minimum level of service of acceptable quality for each component provided by the applicant, regardless of location within the state.

It is reasonable and necessary that each applicant provide, to prospective service participants, information concerning the services available and not available from the applicant in order that an individual can make an informed voluntary decision regarding utilization of the applicant agency's services. Such a requirement assures that an individual knows what services he or she can expect to receive from the applicant. If the applicant agency is not providing what he or she desires, the agency is to arrange a referral to another servi e provider in the geographic area.

7 MCAR § 1.457 D1

It is reasonable and necessary to define public information as activities designed to inform the general public about family planning and all family planning services available in the geographic area in order to:

- increase public knowledge of family planning;
- eliminate existing misinformation and misconceptions about family planning;
- enable voluntary informed decision making regarding the support and/or utilization of family planning services and methods.

7 MCAR § 1.457 D2

It is reasonable and necessary to define outreach as activities which inform members of the target population about family planning and all family planning services available in the geographic area in order to assure that persons who would like services are informed of the available services.

The requirement that outreach include person-to-person contact or small group contact with the target population is reasonable and necessary to assure that persons of greatest need for family planning services, as defined by the applicant agency, have access to more than written materials on family planning services and have an opportunity to ask questions or express concerns. To assure accessibility, it is reasonable and necessary to require that the component be offered at times and places convenient to those persons the applicant proposes to serve.

It is reasonable and necessary to require that persons conducting outreach have training and/or experience in family planning services in order that they may provide accurate and complete information to service recipients. Since provision of accurate information in a supportive environment does not require any particular degree or length of experience, it is reasonable to maintain flexible, open standards on personnel.

7 MCAR § 1.457 D3

It is reasonable and necessary to define counseling as the utilization of non-directive interview techniques to assure the presentation of unbiased information by the person offering counseling and the use of counseling techniques which can be evaluated objectively.

Inherent in this counseling approach is the concept that an individual needs factual information and a supportive environment in order to review his or her options to any situation, and that he or she is capable of voluntarily determining which option is most appropriate for her or him. The role of the counselor in non-directive counseling is one of information provider, supporter, and assistant to an internal individualized decision making process. Comments by the counselor should be open-ended and non-judgmental and should not reflect what the counselor perceives as best for any service recipient.

Non-directive counseling techniques inherently incorporate the notion of voluntary informed choice necessary in the selection and effective utilization of family planning methods. The methods that do not require medical intervention are sometimes provided to Minnesota residents with minimal or no education relative to alternatives. Often only limited education is provided relative to use of some selected methods such as foam and condoms.

For all family planning methods, the effectiveness rate is influenced by the desire and ability of the individual to consistently and accurately use the method. Utilization is affected by the individual's preference and circumstances. Therefore, in order that an individual may select a method most acceptable to her or him, it is reasonable and necessary to require that the provision and explanation of factual information on all pregnancy prevention methods or all methods of infertility diagnosis and treatment be included in the counseling session. It is reasonable to require that information on services for pregnant women be available to service recipients wanting to attain pregnancy so that maximum prenatal care can be encouraged.

When counseling is to be provided with Family Planning Special Project Grant funds, it is reasonable and necessary that it be available to any individual in the target population and at convenient times and places to assure that all members of the target group have an opportunity to adequately consider their needs and make a voluntary informed decision regarding the utilization of family planning services and methods.

Since Subd. 7 of MN Laws 1978, Chapter 755 requires that specific information be provided as part of counseling, it is reasonable not to repeat these specific requirements in Rule. However, it is reasonable and necessary to require that each applicant proposing to provide counseling document that all information required in Subd. 7, MN Laws 1978, Chapter 775 has been provided so that compliance can be monitored by the Minnesota Department of Health.

It is reasonable and necessary to require persons conducting counseling sessions to have training and/or experience in both counseling and family planning services to assure that knowledgeable and skillful individuals are conducting the sessions. Since knowledge and skill in counseling for family planning may be obtained in a variety of ways, it is reasonable that personnel requirements remain flexible.

7 MCAR § 1.457 D4

It is reasonable and necessary to provide standards for the method component of these Rules in order to assure the quality of family planning methods and to assure that related preventive health services, as appropriate, are incorporated into the provision of approved family planning methods funded with state Family Planning Special Project Grant funds. Five activities, discussed separately below, are required as part of the provision of the method component.

7 MCAR § 1.457 D4a

It is reasonable and necessary to require that the applicant document, for monitoring purposes, that the service recipient participated in counseling, prior to selecting a family planning method to prevent pregnancy, in order to assure that the service recipient has had access to sufficient information on all family planning pregnancy prevention methods available and has made an informed choice.

7 MCAR § 1.457 D4b

It is reasonable and necessary to require that there be voluntary selection of the approved family planning method by the service recipient. There are many approved methods, none of which is best for everyone. Voluntary selection of the approved family planning method allows for an individual to select the method which best fits her or his lifestyle and her or his needs. Such information is best understood by the service recipient and, therefore, the service recipient should select the family planning method unless such choice is medically contraindicated.

7 MCAR § 1.457 D4c

It is reasonable and necessary to require that the applicant provide information on the advisability of females obtaining a gynecological examination with Pap smear prior to initiating any family planning method, in order that all females initiating a family planning method know the health benefits of gynecological examinations and Pap smears and can make an informed decision regarding receiving these services. Regardless of the method provided, the level of health care provided is increased and improved by the provision of this kind of health education. For those methods which require medical services, the individual will be able to receive the gynecological examination and Pap smear from the applicant. For those methods of family planning which do not require medical intervention to be effective in the prevention or attainment of pregnancy, the service recipient will be able to receive referral for these services.

7 MCAR § 1.457 D4d

It is reasonable and necessary to require the applicant to educate the service recipient on the use of her or his selected family planning method, including the risks and benefits of the method, so that the service recipient will use the method correctly and seek assistance if problems with its usage occur. The effectiveness of all family planning methods is influenced by the degree of understanding of the service recipient of the risks and benefits and the correct usage of the method selected. Therefore, education in this regard is essential to prevention of unplanned pregnancies or attainment of pregnancy. There are risks associated with the methods which must be known by the service recipient. There are also "warning signs" associated with the methods which alert the service recipient to seek medical attention. These "warning signs" must be known to the service recipient.

7 MCAR § 1.457 D4e

It is reasonable and necessary to require medical services prior to the provision of some family planning methods and not prior to the provision of other family planning methods. Although provision of medical services is highly desirable prior to provision of all methods, it is more essential for some methods than for others.

When the selected method requires medical intervention for prescription, fitting, insertion or for surgical or diagnostic procedures, it is required that a specific series of medical services be provided. It is reasonable and necessary to require medical services in these instances since these methods may impact on the health status of the individual in ways other than the prevention or attainment of pregnancy. If there are negative impacts possible, these must be determined prior to use of the method. In addition, the effectiveness of these methods can be influenced by the health status of the service recipient.

For those methods that do not require medical intervention, it is reasonable and necessary to not require an applicant to provide medical services, in order that a possible barrier to provision of services to some persons be eliminated. To persons who do not appreciate the value of medical services and who do not see any relationship between medical services and their method of choice, the provision of medical services may discourage their participation in the agency's family planning services.

Flexibility in this regard also removes a barrier to potential applicants which provide methods not requiring medical intervention and which do not wish to provide medical services. Because these agencies can provide quality services and the Minnesota Department of Health does not wish to discourage their participation in Family Planning Special Project Grant funding, it is reasonable that medical services provision not be required for their participation.

Because Family Planning Special Project Grant funds are available in an amount less than the total needed, it is also reasonable that they be expended as efficiently as possible with a high priority on essential services and a lesser priority on desirable but not essential services.

Nothing in 7 MCAR § 1.457 D4e prohibits those agencies interested and able to provide medical and laboratory services to do so, regardless of methods to be provided.

The requirement that applicants, which will provide methods not requiring medical intervention, shall provide health education regarding medical services, is reasonable and necessary so that service recipients can be informed of the benefits of these services and encouraged to utilize them. Although not essential to methods not requiring medical intervention, the medical services are of known benefit to all service recipients. Because the family planning provider agency will be the only direct contact with the preventive health services system for many persons, it is reasonable to use this contact to encourage utilization of other preventive health services, including the medical services described in these Rules so that their general health may be maintained or improved.

7 MCAR § 1.457 D4e(1)

It is reasonable and necessary to obtain a social and medical history with emphasis on the reproductive system to assure that there are no current symptoms or historical factors which preclude use of some methods and/or which suggest the need for further evaluation to assure the person's good health.

7 MCAR § 1.457 D4e(2)

It is reasonable and necessary to obtain height, weight, and blood pressure measures, as indicators of the general health status of the service recipient. In addition, certain family planning methods may influence weight and blood pressure and it is, therefore, necessary to monitor these to assure health problems do not develop.

7 MCAR § 1.457 D4e(3)

It is reasonable and necessary to perform a bimanual pelvic examination on females to ascertain the health and position of the reproductive organs which may contraindicate certain family planning methods.

7 MCAR § 1.457 D4e(4)

It is reasonable and necessary to perform breast examination as part of the woman's health assessment to assure that conditions which would contraindicate certain family planning methods are not present.

It is reasonable and necessary to require instruction in breast self-examination in order that service recipients can monitor breast changes which may indicate a change in health status and may contraindicate their family planning method of choice.

7 MCAR § 1.457 D4e(5)

It is reasonable and necessary to require hemoglobin or hematocrit evaluations as indicators of the general health status and monitors of the effects of certain family planning methods on the health status of the service recipient.

7 MCAR § 1.457 D4e(6)

It is reasonable and necessary to require urinalysis for sugar and protein as indicators of general health status and monitors of the effects of certain family planning methods on the health status of the service recipient.

7 MCAR § 1.457 D4e(7)

It is reasonable and necessary to require a Pap smear as an indicator of the general health status of the service recipient and of a condition which could contraindicate certain family planning methods.

It is reasonable and necessary to require three specific medical services, discussed below, for males and/or females only when indicated by history or symptoms since these services are not indicators of general health status of service recipients and, therefore, need not be generally provided. A requirement that applicants provide these services to all service recipients receiving medical services would not be cost effective. The three services are included in these Rules because they are provided by many family planning agencies as part of their services, and there is an expectation on the part of many service recipients that these services should be available as part of family planning services.

7 MCAR § 1.457 D4e(8)

It is reasonable and necessary to provide diagnosis and treatment of venereal disease for males and females when indicated by history or symptoms since the presence of venereal disease in either partner may affect the health of the reproductive organs and, therefore, contraindicate certain family planning methods. Initiation of certain family planning methods by females with venereal disease may result in Pelvic Inflammatory Disease (PID) and possible future fertility problems.

7 MCAR § 1.457 D4e(9)

It is reasonable and necessary to provide diagnosis and treatment of vaginitis when indicated by history or symptoms for females since the presence of vaginitis may contraindicate initiation of certain family planning methods. When not postponed, initiation of certain family planning methods in the presence of vaginitis may lead to PID and possible fertility problems.

7 MCAR § 1.457 D4e(10)

It is reasonable and necessary to require the diagnosis of pregnancy when indicated by history or symptoms to assure that family planning methods, which could influence the developing fetus, are not initiated.

It is reasonable and necessary to require that medical services be rendered by a licensed physician or specifically trained and/or certified nurse under the supervision of a licensed physician since by Minnesota Law, Chapter 147, . , only licensed physicians can diagnose and prescribe treatment. Therefore, complete, quality, lawful medical services require the participation of a licensed physician.

It is reasonable and necessary to require that laboratory tests be conducted by personnel trained to conduct such tests since the accuracy of these tests depends on the skill of the individual to accurately and efficiently perform and read them.

7 MCAR § 1.457 D5

It is reasonable and necessary to define "referral" in order to avoid ambiguity and assure quality referral activities among a variety of service providers. It is reasonable that referral information be provided in writing so that the service recipients can have, for reference at a subsequent time, a clear record of necessary actions to be taken in order for them to participate in family planning. This method of retaining information is more reliable than reliance upon memory. A copy of the referral record on file with the referring agency is also necessary for documenting compliance with the law regarding referral for pregnancy termination services.

7 MCAR § 1.457 D6

It is reasonable and necessary to define a follow-up component to assure continuity of care, since the provision of complete, quality family planning services may require that a service recipient receive a variety of health, educational, and social services at intervals over time from a variety of providers. It is, therefore, necessary to require procedures for monitoring of the service recipient's participation status over time, so that they are able to complete referrals as planned.

Due to the variety of services and/or providers with which the service recipient may be involved, it is reasonable not to require any specific activity which would constitute follow-up. Instead, the activities are left to the provider of follow-up and only the purpose of these activities is prescribed.

7 MCAR § 1.457 E

This section provides the criteria which will be used to award Family Planning Special Project Grants. It is reasonable and necessary that the criteria be established in these Rules so that applicants may clearly understand the basis for judgment of applications by the Minnesota Department of Health. It is also reasonable that only applications which meet the requirements of law and adopted rules be considered for funding since only lawful expenditure of state funds can be fostered.

7 MCAR § 1.457 E1

It is reasonable and necessary to give priority to applications proposing to serve counties with no in-county subsidized family planning program in order to establish services in areas of greatest need. It is also reasonable that this priority be contingent upon an applicant's proposal to offer <u>all</u> components in the application since the total lack of any subsidized program is an indication that referral sources may be limited. Therefore, to assure available and accessible and complete services to residents of these counties, only a comprehensive family planning program should receive priority.

It is reasonble to require that the county to be served by a priority project must be without subsidized family planning services as of December 31, 1978, the approximate date of program implementation. The incorporation of this date in Rules will assure that, in the future, existing family planning services are not discontinued in order for an application to receive priority status. It is reasonable that the status of an area as of this date will be continued to assure that new comprehensive programs in areas of greatest need maintain their funding.

7 MCAR § 1.457 E2

It is reasonable and necessary that 7 MCAR § 1.453 B2c&e be referenced so that these already promulgated criteria dealing with probable effectiveness and equity which are applicable to Family Planning Special Project Grant funds may be known but not duplicated.

It is reasonable and necessary that further, more specific criteria be established relevant to the specific nature of the Family Planning Special Project Grant funds and not applicable to other, more general funding sources to which 7 MCAR § 1.453 applies.

7 MCAR § 1.457 E2a

It is reasonable and necessary to evaluate applications on the extent funds will be used to meet unmet needs in the geographic area to be served in order to assure that state funds are not used to duplicate services or to serve populations not needing service and to assure that funds are used to expand availability and accessibility of family planning services as was the intended use of the appropriation made by the Minnesota Legislature.

7 MCAR § 1.457 E2b

It is reasonable and necessary to evaluate an application on the extent it proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant since only by an expansion of services can there be a reduction in the number of unplanned pregnancies and associated health, educational, and social consequences. This objective is in keeping with the intent of the Minnesota Legislature when it appropriated the funds.

7 MCAR § 1.457 E2c

It is reasonable and necessary to evaluate an application on the basis of the extent it proposes to coordinate family planning services with organizations, agencies, and individual providers in the geographic area to be served since applicants are not required to provide all services but the availability and accessibility of all services is necessary to quality family planning services for service recipients.

7 MCAR § 1.457 E3

Since MN Laws 1978, Chapter 775 permits applications for funding from more than one agency in the same geographic area and Family Planning Special Project Grant funds are limited, it is reasonable and necessary to establish a priority system for awarding funds among equivalent, competing applications proposing services in the same geographic area.

It is reasonable and necessary to give first priority to local Boards of Health in order to build the health care delivery system established by MN Laws 145.911-922, Community Health Services Act, whenever possible. These laws established the basis of a locally operated system accountable to local elected officials with required procedures for involving the public in policy formulation. This system is responsible for coordination of a wide variety of local health services, including family planning. To strengthen this responsibility and local accountability and thus assure coordination with other local government services, it is reasonable that categorical health programs such as the Family Planning Special Project Grant program be managed, to the extent possible, by these agencies as part of their braoder program authorized by the Community Health Services Act.

Since governmental agencies, i.e., local Boards of Health, and certain non-profit corporations are the only eligible applicants as defined in law, it follows that the non-profit corporations be given second priority.

Given the responsibilities of local Boards of Health desribed above, it is reasonable and necessary that these agencies review and comment on any applications for Family Planning Special Project Grant funds prepared for their areas by applicants other than Boards of Health.

The local Board of Health review time of 20 days after the proposal was mailed is reasonable because it permits sufficient time for efficient action. A longer time than this would create unnecessary delay in completion of the application approval process by the Minnesota Department of Health.

It is reasonable and necessary to describe the process by which funds will be allotted to eligible applicants if the requests for funds exceed the amount of funds available in order that all applicants are knowledgeable of the process to be utilized in reducing a funding request or denying funding to eligible applicants.

When requests for funds exceed the amount of funds available, all eligible applications will be assigned one of three priorities, discussed separately below, and funded accordingly.

1. It is reasonable and necessary to establish, as first priority, applications establishing service in counties with no in-county family planning services as of December 31, 1978, in order to assure that counties with the greatest lack of family planning service components receive the funding necessary to establish and maintain services.

Since all applications in priority one will be of equivalent status, it is reasonable to reduce each funding request by a common factor to assure that all proposals in this priority receive some funding.

2. It is reasonable and necessary to establish $20,000 as the cut-off for the second priority since this is the smallest amount of funding that would enable development of a quality, cost effective family planning program with meaningful expansion of service in a county. This figure is derived from a Minnesota Department of Health estimate that minimally each county should have funds for one full-time family planning worker ($15,000 salary/fringe) and necessary training, travel, and supplies ($5,000).

   Since all applications in priority two are of equivalent status regarding need for funds, it is reasonable and necessary to reduce all applications in this priority by a common, relevant factor when funds requested exceed funds available to assure that all applications in this priority receive funding.

3. It is reasonable and necessary to establish, as third priority, applications over $20,000, which propose services in counties with some existing subsidized family planning services. A reduction in funds requested in these proposals by a uniform percentage will have the least negative impact on equitable distribution of family planning services to Minnesota residents. It is reasonable to adjust all funding requests in priority three by the ratio described in these Rules to assure that if any application in this priority receives funding all applications receive funding.

It is reasonable and necessary to include in these Rules an example of the funding calculations for allocating funds under priority three in order that all applicants may have a better understanding of the use of the process.

7 MCAR § 1.457 F

This section describes how Family Planning Special Project Grant funds may be utilized. This is reasonable and necessary so that the applicant may clearly understand several implementation decisions of the Minnesota Department of Health relative to use of the grant funds.

7 MCAR § 1.457 F1

It is reasonable and necessary to permit Community Health Service subsidy funds planned and budgeted for family planning services to be supplanted by Family Planning Special Project Grant funds. To not allow supplantation would penalize the local Boards of Health that acknowledged the need for family planning services and attempted to meet those needs at the expense of other preventive health services. It would thus violate the concept of equity of funding established within the Community Health Services Act of which the Family Planning Special Project Grant program is an amendment.

7 MCAR § 1.457 F2

It is reasonable and necessary to prohibit supplantation of federal and local funds for family planning services with Family Planning Special Project Grant funds in order to assure an expansion in family planning services accessibility and availability. Equity is not an issue here because these funds are unrelated to the Community Health Services Act and are inequitably distributed.

7 MCAR § 1.457 F3

It is reasonable and necessary to not require that Family Planning Special Project Grant funds be matched by local funds in order to minimize fiscal barriers to establishment of family planning services.

Dr.
Grace
Judy

No Schedule for
outside

EF #10

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to Family Planning Special
Project Grants

STATEMENT OF NEED
AND REASONABLENESS

The above-captioned rules are new rules to be included in chapter 27, part II which section relates generally to the award of grants by the Commissioner of Health to agencies prepared to offer health services at the local and regional level.

The need to adopt these rules arises because of legislative mandate.

Minn. Laws 1978, ch. 775, authorizes the Commissioner of Health to make special grants to cities, counties, groups of cities or counties or nonprofit corporations which provide pre-pregnancy family planning services. Section 1, subdivision 5 states in relevant part as follows:

> The Commissioner of Health shall promulgate rules for approval of plans and budgets of prospective grant recipients, for the submission of annual financial and statistical reports, and the maintenance of statements of source and application of funds by grant recipients. . . .

These rules are needed in order to comply with the above-quoted legislative directive.

Minn. Stat. § 144.12, subd. 1 (Supp. 1977) states in relevant part as follows:

> The Board*/ may adopt, alter, and enforce reasonable regulations of permanent application throughout the whole or any portion of the state, or for specified periods in part thereof, for the preservation of the public health.

---

*/ Minn. Stat. § 144.011 (Supp. 1977) abolished the board of health and transferred all its power to the Commissioner of Health. Although statutes cited and quoted herein refer to the board of health as empowered to promulgate and enforce rules, reference is made to the Commissioner of Health throughout this statement of need and other documents filed in support of these rules.

The standards contained in these rules are proposed to address a legislatively perceived public health need. If there is any doubt as to whether or not these rules concern the preservation of public health, one need only refer to the "community health services act", found in Minn. Stat. §§ 145.911 to 145.922 (1976). Under this law, the Commissioner is authorized pursuant to Minn. Stat. § 145.918, subd. 1(c) to promulgate rules for establishing standards for personnel, administration, reporting and planning of services included in the community health services plan. Included in community health services are "family planning services", which are defined in Minn. Stat. § 145.912, subd. 9 as follows:

> . . . counseling by trained personnel regarding family planning; distribution of information relating to family planning, referral to licensed physicians or local health agencies for consultation, examination, medical treatment, genetic counseling, and prescriptions for the purpose of family planning; and the distribution of family planning products, such as charts, thermometers, drugs, medical preparations, and contraceptive devices. . . .

Thus, even in the absence of the legislative mandate contained in Minn. Laws 1978, ch. 775, the legislature conferred upon the Commissioner the authority to promulgate standards for potential recipients proposing to offer family planning services.

Rules relating to the awarding of special project grants are needed to facilitate the provision of family planning services and to provide quality assurance for such services. Through such grants, family planning services may be offered to those persons in the public who may not presently be receiving such services, or may not have access to such services. These rules help to accomplish this goal by requiring the identification of needs and attempting to insure that these needs are either filled, or that those in need are adequately referred to others for such services.

Furthermore, these rules are necessary to provide a minimal degree of uniformity to those agencies which demonstrate capability to provide family planning services or components thereof, as well as allowing a maximum degree of flexibility to local programs consistent with their determination of local needs and

desires. Hopefully, promulgation of these rules will encourage those communities which do not now have family planning programs to institute the same. These rules are also designed to prevent wasteful duplication as well as possible fragmentation among agencies offering family planning components throughout the state.

Finally, authority and need for these rules are found in Minn. Stat. § 15.0412, subd. 3 (Supp. 1977). Subdivision 1 of this statute requires that each agency adopt rules consistent with its duties and obligations. The law states that the administrative procedure act itself does not constitute authority for an agency to adopt rules, "except as provided in subdivision 3 . . .". Subdivision 3 states as follows:

> Each agency shall adopt rules setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

The rights of those programs or agencies seeking grant funds are affected by the approval or nonapproval of their application by the Commissioner of Health. Surely, applicants for grant funds are entitled to notice as to what procedures shall be used with regard to granting such funds. Applicants are entitled to advance knowledge of the standards and criteria upon which their applications shall be reviewed as well as the standards and procedures upon which they may continue to be approved. These rules are necessary so as to preclude the possibility of conferring too wide a path of bureaucratic discretion upon state decision-makers. Inasmuch as the administration of the grant system is an official duty of the Commissioner pursuant to those statutes referenced above, these rules are necessary to set forth the nature of his requirements and procedures with respect to the grant approval process. It is necessary to insure that the Commissioner and those acting under his authority concentrate their reviewing efforts to those items within these rules which relate to the ultimate public health benefits of family planning programs and which are within their expertise to review.

Further need is clarified and put forth in the justification, attached hereto, filed to support the reasonableness of these rules.

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

Dated: December 15, 1978

WARREN R. LAWSON, M.D.
Commissioner of Health

#11

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to Family Planning Special Project Grants

STATEMENT OF WITNESSES

The following individuals are agency personnel who will represent the Commisisoner of Health at the hearing on the above-referenced matter:

Ronald Campbell, M.D., Chief, Maternal and Child Health

Grace Gumnit, Acting Director, Division of Personal Health Services

Judi Kapuscinski, Supervisor of the Family Planning Unit

Dated: December 15, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

lance service with a base of operation in Falcon Heights, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subd. 2 of that statute states, in part: The commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977), may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Department of Health Family Planning Division

Notice of Intent to Solicit Outside Opinion on Proposed Rules Relating to Family Planning Grants

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1977), the Commissioner of Health will develop and propose rules relating to Family Planning Grants.

All interested parties desiring to submit data or views related to the promulgation of rules relating to Family Planning Grants should address their comments, either written or oral, to the Minnesota Department of Health, Division of Personal Health Services, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, by writing or calling the person designated. Evidence submitted for consideration should be pertinent to the matter at hand. Any materials received by the Department will become part of the hearing record.

Contact: Judi Kapuscinski
Family Planning Unit
(612) 296-5285

Under the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1976), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules, must register with the Ethical Practices Board as a lobbyist within five days of commencement of such activity by the individual. The Ethical Practices Board is located at Room 401, State Office Building, Saint Paul, Minnesota 55155.

Warren R. Lawson, M.D.
Commissioner

Department of Health Vital Statistics Division

Notice of Intent to Solicit Outside Opinion on Proposed Rules

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (1976), that the Minnesota Commissioner of Health will propose the adoption of new rules and the amendment and revision of existing rules.

All interested parties desiring to submit data or views relating to the proposed adoption, amendment or revision of the rules relating to vital statistics should address their comments (either written or oral) to Mr. Frederick L. King, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, (612) 296-5316. Material and comments submitted for consideration should be pertinent to the matter at hand.

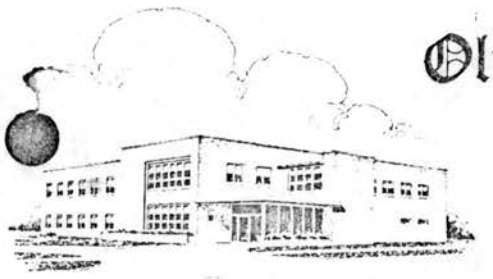
Any materials submitted shall be reviewed and considered by the commissioner during the preparation of the proposed rules. Notice of the public hearing on the proposed rules shall be published in the *State Register* and given to all interested parties who have registered with the Office of the Secretary of State in accordance with the provisions of the Administrative Procedure Act.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking 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 Practice Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

Warren R. Lawson, M.D.
Commissioner

June 15, 1978

#12



Olmsted County Health Department

415 FOURTH STREET S.E.
Rochester, Minnesota 55901
(507) 285-8352

GEORGE R. PETTERSEN, M.D., M.P.H.
Director of Public Health

October 4, 1978

Ms Judi Kapuscinski
Family Planning
Minnesota Department of Health
717 Delaware Street Southeast
Minneapolis, MN 55440

Dear Judi:

I apologize for missing the meeting last Thursday, but neither Chuck Sandberg nor myself were available. I had some problems with our budget which I had to attend to and I forgot that Chuck was on vacation and would not be able to go.

I did read over the draft that you sent me and really find nothing in it which was disagreeable from my standpoint. We are thinking about sending in a request for funds to see what the commissioner does with it.

Please continue to keep me informed.

Thank you.

Sincerely,

George R. Pettersen, M.D.
Director of Public Health

ja

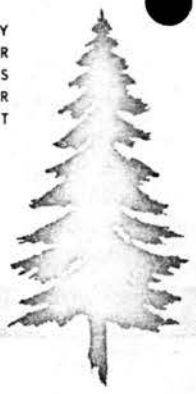
OCT 6 1978
PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

EINER R. ANDERSON ..... AUDITOR
DOUG M. ANDERSON ..... TREASURER
JAMES NIXON, M.D. ..... CORONER
H. W. LONGFELLOW ..... JUDGE, COUNTY COURT
DARRELL M. SEARS ..... JUDGE, COUNTY COURT
CHARLES WARNBERG ..... SHERIFF

STEPHEN C. RATHKE ..... COUNTY ATTORNEY
MABEL E. GORMAN ..... COUNTY RECORDER
MABEL E. GORMAN ..... REGISTRAR OF TITLES
DEAN ANDERSON ..... COUNTY SURVEYOR
MARGE WILLIAMS ..... CLERK OF COURT

COUNTY COMMISSIONERS

FRANCIS MURPHY, CHAIRMAN DON O'BRIEN
MARV RAU OTTO SCHALOW ROSS KUNKEL



CROW WING COUNTY
BRAINERD, MINNESOTA 56401

September 18, 1978

SEP 20 1978
PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

Ms. Judi Kapuscinski
Supervisor Family Planning Unit
Minnesota Department of Health
717 Deleware S.E.
Minneapolis, MN. 56440

Dear Judi:

Enclosed you will find some limited editorial comments on the Interior Family Planning Rules. I am in overal agreement with the draft as proposed. I feel it meets the legislative intent and provides coordination, and quality assurance.

Sincerely,

Gary

Gary Baumgartner, Administrator
Crow Wing County Health Services

GB/tb

Encl.

SECOND DRAFT OF INTERIM RULE

RELATING TO FAMILY PLANNING SPECIAL PROJECT GRANTS

1. Purpose, Scope and Applicability

The purpose and scope of these Rules is to prescribe requirements applicable to Family Planning Special Project Grants which are in addition to the general Rules Relating to the Awarding of Grants and Subsidy for Community Health Services and Establishing Standards Under the Community Health Services Act (MCAR § 1.451 - 1.455), to establish minimum standards for family planning services supported in whole or in part by family planning special grant funds, and to provide a criteria for the review of family planning special grant applications. The following parts of MCAR § 1.451 - 1.455 also apply to family planning special project grants: 1.451 A, B, C3, D; 1.452 A, B, C, D1&2, E; 1.453 A, B2c, C; 1.454 A, B1-5 a, d, e, f, C; 1.455 B.

2. Definitions

"Approved Family Planning Methods" means agents and devices approved by the Federal Food and Drug Administration for the purpose of fertility regulation, and other agents and devices for the purpose of fertility regulation including but not limited to, spermicidal agents, diaphragms, condoms, natural family planning methods, sterilizations, and the diagnosis and treatment of infertility by a licensed physician which can be paid for in whole or in part by family planning special project grant funds.

"Family Planning" means voluntary planning and action by individuals to attain or avoid pregnancy.

"Family Planning Services Components" means each of the public information, outreach, counseling, method, referral and follow-up services.

"Provide" means to directly supply or render or to pay for in whole or in part.

3. Content of Application

In lieu of the items a-h of MCAR §§ 1.452 D3, the application shall address the following information:

a. An inventory of existing family planning services provide agencies in the geographic area served by the applicant. The inventory shall include for each provider agency at least:

1) names and addresses.

2) the population served.

3) statistical data relating to numbers of persons served, if available: if unavailable, provide estimates.

4) family planning service components provided.

b. An assessment of unmet needs in the geographic area to be served by the applicant including, but not limited to, an identification of unavailable family planning service components and/or unserved or underserved population. A description of the method used in making the assessment shall be provided by the applicant.

c. A description of the family planning service components to be provided by the applicant. Procedures for referral and follow-up shall be incorporated into all family planning services available on an individual basis. For each component to be provided, the application must describe:

2 1) the goals;

1 2) the population to be served (target population);

3 3) the specific time related objectives;

4 4) the methods by which each objective will be achieved;

5 5) the evaluation criteria to be used;

6 6) a budget and budget justification;

7 7) a summary of the training and/or experience relevant to the component to be provided of the person(s) providing the service.

d. A description of the linkages with family planning services in the geographic area, including plans for contracts and/or cooperative agreements with other organizations or agencies. Linkages shall include, but not be limited to, cooperative agreements and/or contracts with other organizations or agencies to facilitate access to outreach, counseling, and other component services for service recipients.

e. A description of fees, if any, to be charged individuals for any family planning services. Proposed fees must be charged in accordance with a sliding fee for services and supplies based on the cost of such services or supplies and on the individual's ability to pay as determined by income, family size and other relevant factors. When applicable, the maximum fee charged shall not exceed the maximum reimbursement available from Title XIX, Medical Assistance.

Inconsistent

f. Assurance that services will be provided in accordance with state and federal laws and rules.

g. A description of the policies and procedures that will be employed to maximixe the use of third-party sources of funding.

h. Assurance that services will be provided without regard to age, sex, race, religion, marital status, income level, residence, parity, or presence or degree of disability except as otherwise required by law.

i. Assurance that arrangements shall be made for communication to take place in a language understood by the family planning service recipient.

j. If applicable, the extent to which the applicant proposes to use family planning special project grant funds to supplant Community Health Services subsidy funds planned and budgeted for family planning services.

4. Family Planning Service Components, Definition and Minimum Standards

All service components shall include information on family planning services available from the applicant. Service components to be provided by the applicant shall be defined as indicated and shall meet or exceed the following standards.

a. "Public Information" means specific activities designed to inform the general population about family planning and all family planning services available in the geographic area.

b. "Outreach" means specific identified activities designed to inform members of the target population about family planning and all the family planning services available in the geographic area. Outreach activities shall include, but not be limited to, one-to-one or small group contacts with the target population.

Outreach shall be conducted at times and places convenient to the target population. Persons conducting outreach shall have training and/or experience in family planning services.

c. "Counseling" means utilization of non-directive interview techniques which enable individuals to voluntarily determine their participation in family planning services and their family planning method of choice, if any. Counseling shall include the provision of factual information on all approved family planning methods used to avoid or to attain pregnancy as appropriate to the needs of the service recipient.

Counseling shall be available to any individual in the target population and shall be conducted prior to the provision by the applicant of any family planning method of choice at times and places convenient to the target population. Counseling shall include documentation that information required in Subd. 6 of the

family planning statute has been provided. Counseling shall be provided by persons with training and/or experience in counseling and family planning services.

d. "Method" means assisting a service recipient in understanding and obtaining her/his approved family planning method of choice. Provision of any approved family planning method shall include, but not be limited to:

1) Procedures which document that the service recipient participated in counseling prior to selecting a family planning method to avoid pregnancy,

2) Voluntary selection of the approved family planning method by the individual,

3) Information on the advisability of females obtaining a gynecological examination with PAP smear prior to initiating any family planning method,

4) Education on the use of the selected family planning method including the risks and benefits of the method.

5) Medical/laboratory services prior to the provision of a family planning method when the selected method requires medical intervention for prescription, fitting, insertion or for surgical or diagnostic procedures. When the selected method does not require medical intervention, as described herein, the applicant shall encourage service recipients to obtain medical/laboratory services, but provision by the applicant is not required.

Medical/laboratory services shall include:

a) Social and medical/surgical history with emphasis on the reproductive system.

b) Height, weight, and blood pressure measures.

c) Bi-manual pelvic examinations for females.

d) Breast examination and instruction on self-examination for females.

e) Hemoglobin or hematocrit.

f) Urinalysis for sugar and protein.

g) Pap smear.

In addition, when indicated by history or symptoms, the medical services shall include for both male and female as appropriate.

a) Diagnosis and treatment of venereal disease.

b) Diagnosis and treatment of vaginitis.

c) Diagnosis of pregnancy.

Medical services shall be provided by licensed physicians or trained family planning nurse practitioners or midwives under the supervision of a physician. Laboratory tests shall be conducted by trained personnel.

e. "Referral" means to provide, in writing, information to service recipients which enables them to participate in family planning.

f. "Follow-Up" means identified procedures designed to encourage safe and consistent family planning and utilization of other needed services. Follow-up procedures shall maintain the privacy of the service recipient.

Procedures for follow-up shall be incorporated into all family planning services provided on an individual basis.

5. Criteria for Award of Family Planning Special Project Grants

Applications which meet the requirements of law and these rules shall be funded in accordance with the notice of availability and the following criteria:

a) Quality and Content: In addition to MCAR §§ 1.453 B 2 c, applications will be evaluated on the basis of

1) The extent the funds will be used to meet unmet needs in the geographic area as identified in the application.

2) The extent the application proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant.

3) The extent the application proposes to coordinate family planning services provider agencies in the geographic area to be served.

b. Agency

When equivalent and competing applications are submitted for a geographic area, funding priorities will be in accordance with the following:

1) First priority will be given to local Boards of Health.

2) Second priority will be given to eligible non-profit corporations. Prior to submission to the Commissioner, the applicant shall submit the proposal to the local Board of Health for review and comment.

6. Use of State Funds Available for Family Planning Special Project Grants

a. Family planning special grant funds will be allocated by means of a per capita formula based on the amount of family planning special grant funds available to the Department, with the exception of Fiscal Year 1979.

b. Family planning special project grant funds awarded to applicant may be used to supplant Community Health Services subsidy funds planned and budgeted for family planning services in the 1978 or 1979 Community Health Services plan.

c. Family planning special grant funds may not be used to supplant any existing federal or local funds for family planning information or services.

d. Local match is not required.

e. Family planning special project grant funds may be used to coordinate family planning services among providers in the geographic area to be served by the applicant.

When proposed, a plan for coordination of family planning services including plans for contracts and/or cooperative agreements with other organizations or agencies and a budget and budget justification shall be part of the application.

Multi-County Nursing Service

Becker County
Box 701
Detroit Lakes, Minnesota 56501
Phone 847-9237

Mahnomen County
Box 227
Mahnomen, Minnesota 56557
Phone 935-2527

Norman County
Courthouse
Ada, Minnesota 56510
Phone 784-7499

September 12, 1978

SEP 14 1978
PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

Judi Kapuscinski, Supervisor
Family Planning Unit
Maternal & Child Health Section
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Dear Judi:

Thank you for sending me the second draft of the interim rules relating to Family Planning Special Project Grant. There seem to be several changes from the first draft, and I have a few comments that I would like to make on them.

In the definition of "Approved Family Planning Methods", it sounds as though the family planning methods must be prescribed by a physician only. Later in the guidelines, it becomes clear that a family planning practitioner may also provide these services under the supervision of a physician, but this is not clear under the definitions section. Does "Family Planning" also include pregnancy testing? This is clear later but not in the definitions.

Under the content of the application, I felt that it was a little unclear whether the applicant needed to provide all of the family planning service components or not. Perhaps this should be spelled out under this section a little more clearly. I thought that the description of fees was very good. Under Section "h", again we must be sure that we will be able to discriminate on the basis of residence, as we are limited to providing services to county residents.

Also the question of supplement/supplant is still not clear in the guidelines. The guidelines state that Family Planning Grant funds may be used to supplant Community Health Services funds when many of us would use them to supplement. Perhaps I'm being picky about this but I would appreciate it being clarified.

Under Section 4 "b", I feel that it is appropriate that the outreach include all of the family planning services available in the geographic area. This should cut down on the amount of "competition" between groups in the same area, and give clients a wider range of choices.

In general, the guidelines seem to provide criteria for a good family planning program. Again, I would like to encourage you to make these funds available as soon as possible to local agencies. Thank you once again for letting me review these and comment on them.

Yours truly,

Barbara J. Allright

Barbara J. Allright, PHN
Administrator
Multi-County Community Health Services

BJA:alh

minnesota department of health
717 s.e. delaware st. minneapolis 55440
(612) 296-5221

Dr. Lawson has asked me to thank you for your letter in which you express concern for the medical services section of the Second Draft of Interim Rules Relating to Family Planning Special Project Grants. Your comments will be given consideration as we consider revisions in this draft.

If I can provide additional information, please do not hesitate to contact me at (612) 296-5285.

Sincerely,

Judi Kapuscinski, Supervisor
Family Planning Unit

JK:dc

Sept. 9, 1978

RECEIVED
SEP 13 1978
Executive Officer
Minn. Dept. of Health

Dear M. Lawson:

Concerning the second draft of the Interim Rules Relating to Family Planning Special Project Grants: I object to the fact that medical services for recipients of family planning are optional.

I believe that all providers should be required to provide such services regardless of the method chosen.

Health care is an impartial concept in the Community Health Services Act.

Thank you for your consideration of this important point.

Sincerely,

Florian Griffin

RECEIVED
SEP 13 1978
Executive Officer
Minn. Dept. of Health

Sept. 9, 1978

Warren R. Lawson
Com. of Health
717 So E. Del. St.
Mpls. Mn

Dear Mr Lawson,

I'm writing to you in regard to the 2nd draft of interim rules related to Family Planning Practices.

I object to the optional provision for medical services for recipients in the draft. Certainly this is a vital servic that should be required regardless of method that might be chosen. Health must be our overriding concern.

Sincerely,
Janis Ray
West Concord
Mn. 55985

RECEIVED

SEP 11 1978

Executive Officer
Minn. Dept. of Health

444 Marshall Avenue
St. Paul, Mn. 55102

Sept. 8, 1978

Dear Dr. Lawson,

I was very disappointed to find that the proposed interim rule for Family Planning Grants does not intend to address the need for total medical services for women who will use services funded under the Community Health Centers Act. I supported passage of the Act and my understanding of the Congressional intent was that Family Planning services are more than birth control which appears to be the thrust of the second draft of the proposed interim rule. Medical services such as regular Pap smears, breast exams, mammograms, etc. are an essential part of total health care. I hope these concerns are reflected in the final rule.

Sincerely,

Lois Gustafson

RECEIVED

SEP 12 1978

Executive Officer
Minn. Dept. of Health

Dear Dr. Lawson,

I am writing this letter concerning the second draft of interim rules relating to family planning special project grants. I am opposed to the fact that any provider of family planning methods would not be required to provide medical service to the recipient of family planning.

What good does it do to provide one small piece of service without all the other health care that is needed. It is so important for a woman to receive other health services such as

Pap tests, breast exams, and other exams.

I urge you to reconsider and include the provision of other health service with family planning.

Sincerely
Mary Cannon
2014 Jefferson
St Paul, Mn. 55105

PERSONAL SERVICES-MCH
Minn. Dept. of Health
SEP

September 8, 1978

RECEIVED
SEP 12 1978
Executive Officer
Minn. Dept. of Health

Dr. Warren R. Lawson
Commissioner of Health
717. S.E. Delaware Street
Minneapolis, Minnesota

SEP 13 1978
PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

Dear Dr. Lawson:

I understand you have just finished the second draft of the interim rules for the new Family Planning law. I notice that it makes Family Planning services optional for recipients. This removes the teeth from the act! I hope that you'll require such services regardless of methods chosen.

Sincerely,
Lisa Bodine
Ramsey County Chapter
Minnesota Women's Political Caucus

RECEIVED
SEP 12 1978
Executive Officer
Minn. Dept. of Health

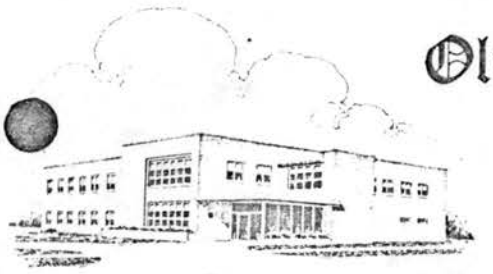
1598 Dayton St.
St. Paul Minn.

Dear Dr. Lawson,

I am writing in regards to the second draft of Interim Rules relating to family planning Spicial project grants. I object to the section not requiring medical/laboratory services when the slected method does not requie medical intervention. Family planning services should not be limited to birth contial care. Care should be given to the complete person at all times.

Thank-you,
Rochelle Davis

SEP 13 1978
PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health



Olmsted County Health Department

415 FOURTH STREET S.E.

Rochester, Minnesota 55901

(507) 285-8352

GEORGE R. PETTERSEN, M.D., M.P.H.
Director of Public Health

September 7, 1978

Ms. Judi Kapuscinski
Family Planning Unit
Minnesota Department of Health
717 Delaware Street Southeast
Minneapolis, MN 55440

Dear Judi:

I am unable to be at the September 7th meeting but wish to comment on the proposed rules as printed in the second draft.

I am in general agreement with the entire draft and only have two areas where any question arises in my mind. One has to do with 4c where the counseling section is discussed. Is there a job description printed anyplace for family planning counselor which would also include the qualifications of that individual? The proposed rule discusses the person who does the counseling but it would be a neater arrangement if one could describe that person a little more exactly.

The other question in my mind is in regard to 5b but could well represent an agency decision rather than rely on the advisory committee. I would prefer to see people who have already committed themselves to family planning in their CHS Plan to use the special grant for an additional onetime effort. If the next legislature appropriates more money for family planning, that agency could then reapportion their funds beginning in July 1, 1979, when that new money became available.

I compliment you on the thoroughness of your planning process and felt extremely comfortable that a very impartial attitude was maintained by your unit in drawing up these rules.

Sincerely,

George R. Pettersen, M.D.
Director of Public Health

ja

SEP 8 1978

PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

RECEIVED
AUG 04 1978
Executive Officer
Minn. Dept. of Health

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT HEALTH

Office Memorandum

TO : Warren R. Lawson
Commissioner of Health

DATE: July 27, 1978

FROM : Robert W. Hiller
Assistant Commissioner
Community Health Services

PHONE: 5384

SUBJECT: Comments Draft Interim Family Planning Rules (7-12-78)

OCHS staff have reviewed the July 12 materials and the following comments are submitted for your consideration.

1) Since the 1978 family planning special grants amend the CHS Act, the proposed rule should amend the CHS Rule MCAR § 01.451 to 1.455. It is inappropriate and confusing to write CHS rules apart from the existing Rule.

2) Will the proposed medical services (page 5, e) be equally applied to men and women? If not, the standard should be revised to reflect the differences - ie will men get hemoglobin or hematocrit tests?

3) I am concerned about the proposed Content of Application (3a and b on page 2):

3a requires an inventory of family planning services. This information has already been developed by the Boards of Health as a CHS Plan requirement, and is updated annually. Supplying an additional special inventory imposes an unnecessary burden on local CHS administrators and staff.

Recommendation: Incorporate by reference existing CHS Plan inventory, update only if necessary.

3b requires assessment of unmet needs and creates a high potential for duplicated effort.

Recommendation: Incorporate by reference and update only as necessary the unmet needs for family planning services.

A general comment on both 3a and b is that MDH is aware of existing services and could release this information to locals by County and save everyone's time and energy.

4) 3H - The Assurances Section should be revised to more clearly express the idea of equal access to service. Age should include the idea of at-risk populations. Will women beyond child bearing age receive family planning services under these rules? Further, services should be provided with regard to parity because methods will vary whether there are no children or 10 previous pregancies and births.

5) 4 - Minimum Standards appears to be definitions of service components, not "Standards" to protect the public's health. "Identifiable Experience in family planning" should be more specifically defined.

6) 5A - Criteria for Awards....and Funding priorities should address special need groups like community clinics, Indians and Migrants. How will their applications be prioritized?

7) Specify the per capita formula components - Will it include males and females; what ages are included; are local economic factors considered?

Thank you for the opportunity for input.

RWH:gs

COUNTY OF ANOKA

Comprehensive Health Department

COURT HOUSE ANOKA, MINNESOTA 55303 612-421-4760

HUMAN RESOURCES OFFICE
SENIOR TRANSPORTATION SERVICE
ENVIRONMENTAL HEALTH

PUBLIC HEALTH NURSING SERVICE
DAYTIME ACTIVITY CENTER
6633 ARTHUR ST. N.E.
FRIDLEY, MINN. 55432
571-0790

COMMENTS ON DRAFT RULES RELATING
TO FAMILY PLANNING SPECIAL PROJECT
GRANTS (7/12/78)

Submitted by: Anoka County Comprehensive Health Department at the July 26, 1978 informational meeting at Anoka County Courthouse.

2845.1 MCH. Definitions: "Approved Family Planning Methods". The inclusion of "the diagnosis and treatment of infertility by a licensed physician" seems to broaden the scope of coverage presently offered through our family planning program. This health problem often necessitates referral to a specialist, and, also, the diagnosis and treatment can be a very expensive process. We recommend that coverage be limited to a specific dollar amount or that services be specified such as "counseling and referral to a specialist".

2845.2 MCH. Content of Application. Item b. refers to an assessment of unmet needs. "Assessment" needs clarification. Will a demographic assessment fill this requirement or will other components such as community surveys or public meetings be required? What are the acceptable methods for making the needs assessment?

2845.5 MCH. Item B. states "Counseling shall be available to any individual and shall be conducted prior to the provision of any service following the voluntary determination and annually where the determination requires medical services". All of our family planning clients receive counseling prior to the provision of medical services. However, we feel that annual counseling is an unnecessary requirement. We expect family planning counseling to be an on-going part of the physician/patient relationship. When the patient has selected the method of family planning to be used and selected his/her physician, it is a duplication of service for us to provide counseling annually. An annual determination of financial eligibility should be required but this should not be termed counseling.

2845.5 MCH. Item d. refers to a Follow-up Plan. When our agency establishes a contract with a physician or clinic to provide family planning services, we expect that the client will receive follow-up by the prescribing physician. Does this item mean that our agency would be required to follow-up or counsel with all clients after they have received medical service?

If we establish contracts to provide family planning services, we do not want to duplicate functions or services already provided for through the contract. Duplication will increase our costs for providing these services. In addition, such duplication is likely to be viewed by both the patient and the physician as unnecessary. We, therefore, request clarification on Item d.

ND:rw
7/26/78

Affirmative Action / Equal Opportunity Employer

Orig.: Dr. Lawson
xc: PHS Div.-Family Planning
10/10/78 WC:rm

RECEIVED
OCT 10 1978
Executive Officer
Minn. Dept. of Health

GEORGE F. PERPICH
Senator 5th District
Room 303
State Capitol
St. Paul, Minnesota 55155
(612) 296-4145

Senate
State of Minnesota

October 5, 1978

Dr. Warren R. Lawson, Commissioner
Department of Health
717 Delaware Street Southeast
Minneapolis, MN 55440

Dear Warren,

I have been a firm advocate for effective family planning legislation ever since I first entered the senate. However, I voted against the final version of S.F. 2143 as I felt it had been gutted by too many unacceptable amendments. I now believe that the proposed departmental rules relating to the family planning grants unnecessarily further weaken the intent of this legislation.

As objections to the third draft of these rules are already being relayed to my office, I see no reason to take the time to review the second draft which you have forwarded to me. I believe as chairman of this committee I am entitled to more direct notification of the Department's actions in planning the distribution of these funds.

My greatest concerns, however, at this point is that the Department listen carefully to the objections being raised by the Family Planning Advisory Task Force on these proposed rules. Acting on the Task Force's recommendations, the Department of Health should draft a responsible final proposal and get this program moving before the 1979 legislature.

Sincerely,

George

George F. Perpich, Chairman
HEALTH, WELFARE AND CORRECTIONS COMMITTEE

GFP:bf
CC: Governor Rudy Perpich
Senator Emily Staples
Senator Robert Lewis

HEALTH - PHS/[illegible]CH

Thomas J. Triplett
Legislative Counsel to the Governor

October 26, 1978

Warren R. Lawson, M.D.
Commissioner of Health

Family Planning Services

Thank you for your memorandum of October 16, 1978. I would like to respond to the three items you addressed.

The conclusions of the Governor's meeting of October 3 were that we were to prepare an RFP for distribution by October 31 and set a hearing date in November. We anticipate that a notice of availability of RFP will be published in the State Register on November 6, 1978. We are preparing the materials which must accompany our request for hearing date and anticipate a date of mid-December. We will provide you with information on our progress in these matters.

A copy of your memo to Dick Wexler regarding the use of RFP's was not enclosed with your memorandum. However, I will be in contact with Mr. Wexler and assure you that we will not take any action without legal counsel.

Regarding the position of the Minnesota delegates to the National Woman's Conference on availability of family planning services to all women, I refer you to Section 3h of the Fourth Draft of Interim Rules Relating to Family Planning Special Project Grants (enclosed). As you can see, we have incorporated a non-discrimination assurance which adequately addresses the concerns of the Minnesota delegates.

If I or a member of my staff can provide further information, we will be pleased to do so.

bcc: Judi K.

ADMIN 1000 (REV. 4/77)

STATE OF MINNESOTA

DEPARTMENT EXECUTIVE

Office Memorandum

RECEIVED 1978

Executive Officer
Minn. Dept. of Health

DATE: 10/16/78

TO : Commissioner Warren Lawson
Department of Health

FROM : Thomas J. Triplett
Legislative Counsel to the Governor

PHONE:

SUBJECT: Family Planning Services

Pursuant to our recent meeting with the Governor, please keep me advised of your progress in this area. As you recall, we concluded that your notice of hearing on the adoption of the family planning rules will be published in the State Register by November 1.

not need pm — Attached is a memo from me to Dick Wexler. In that memo I raise the issue of the adequacy of using RFP's in contracts in order to avoid the apparent requirement of adopted rules.

As a final matter, Minnesota's delegates to the National Women's Conference have developed a position that family planning services should be available to all Minnesota women without regard to age, race, income, or other factors. We presume that your rules will recognize this request.

Thanks for your help.

TJT:bwm

MCCL

MINNESOTA CITIZENS CONCERNED FOR LIFE
A PRO-LIFE MOVEMENT

4803 Nicollet Avenue / Minneapolis, MN 55409 / Ph.(612) 825-6831

September 13, 1978

Judi Kapuscinski, Supervisor
Family Planning Unit
Minnesota Department of Health
717 S.E. Delaware St.
Minneapolis, MN 55440

SEP 15 1978
PERSONAL HEALTH SERVICES/MCH
Minn. Dept. of Health

Dear Ms. Kapuscinski,

We would like to offer comments and suggestions on the second draft of rules relating to family planning special project grants.

As an organization MCCL has no official policy regarding family planning. We are, however, unalterably opposed to any method of "family planning" that involves killing a child already conceived. Because of this, we worked for the inclusion in the family planning statute of the section which makes abortion providers ineligible for funding, either directly or indirectly.

Our main concern is to insure that the rules being promulgated will implement the law in the spirit in which it was enacted - that is, that every agency providing abortions will be totally prohibited from sharing the appropriation provided under the statute.

The definition of "family planning" in the second draft is a great improvement over the first draft definition. However, we feel it should be expanded to include explicit language stating that abortion is not an approved family planning method.

We suggest the addition of this sentence to the definition of "Approved Family Planning Methods": "Abortion is explicitly excluded as an approved family planning method."

We also suggest that Section 3.d. of the proposed rules be expanded to include a specific statement that grantees may not sub-contract with abortion providers, as pursuant to Subdivision 2 of the Family Planning Act.

This language from the act could be added to Section 3.d.: "No state funds shall be used under contract from a grantee to any non-profit corporation which performs abortions."

The Family Planning Act also provides that persons paid with funds appropriated under the act must notify the parent or guardian of an unemancipated minor who

is advised to have an abortion or sterilization.

We suggest an addition to Section 4.c. of the proposed rules reading as follows: "Parental notification is required if an unemancipated minor is advised to undergo an abortion or sterilization procedure."

The definition of family planning services in the Community Health Services Act excludes abortion referrals. Therefore, we suggest this addition to Section 4.e. of the proposed rules: "Referrals for abortion are explicitly excluded from this definition."

Also, we suggest that in Section 4.f. the words "excluding abortion" be inserted in the first sentence after "utilization of other needed services."

We suggest that the first sentence of Section 5.b.2) be expanded to read: "Second priority will be given to eligible non-profit corporations, specifically excluding those which provide abortions."

We feel also that Section 6.e. could be improved by inserting this sentence after the first sentence: "However, funds may not be used to coordinate services with those agencies which provide abortions."

We are very concerned that the Family Planning Act be implemented in strict accordance with the intentions of the legislature with regard to abortion. We feel this has not been done in implementing the Community Health Services Act. That act specifically prohibits funding of agencies involved with abortion, and yet an abortion clinic has been funded with CHS money. We would like the proposed rules for implementing the Family Planning Act to prevent this sort of thing from occurring.

Because there is no exclusion of abortion to be found anywhere in the draft rules, we suspect they are being written in anticipation of the success of Planned Parenthood's legal challenge to the statute, especially since Tom Webber is a member of the Advisory Task Force.

(His membership on the task force seems inappropriate in that his organization is attacking the statute the rules are supposed to implement.)

While it may save the effort of changing the rules at a later date, we object to this approach. The law is still in force as passed, and the legislature's intentions should be carried out unless and until the law is altered by the courts.

Thank you for the opportunity to comment on the proposed rules. We would appreciate being informed of the dates of public hearings on the rules as soon as they are set.

Sincerely,

Nancy Koster

Nancy Koster
Vice-President

cc: Sen. Wayne Olhoft
Rep. Steve Wenzel
Don Kramer
Jeanne Therese Condon

WAYNE OLHOFT
Senator, Herman, Mn. 56248
Room 30 State Capitol
St. Paul, Minnesota 55155
Capitol Phone: (612) 296-4178

Senate
State of Minnesota

August 14, 1978

AUG 17 1978
PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

Rod Oldenburg, Consultant
Family Planning Unit
Department of Health
717 SE Delaware St.
Minneapolis, MN 55440

Dear Rod:

Thank you for your July 27th memorandum containing the proposed rules for Family Planning Special Grant Funds. I read with great interest your draft copy and would like to offer some advice on how to improve them for the upcoming hearings.

As an author of several of the amendments which were added to the final version of Chapter 1175, I would like to point out that the legislature was attempting to empahsize several points very strongly. Some of these are not adequately reflected in the draft rules at this time.

My first overall concern is the lack of clear emphasis that abortion is to be avoided under all circumstances. There are several locations where abortion as a service or allowing abortion providers to receive grant funds should be excluded (definition of "approved family planning methods" and "family planning services"; 3d, 4b, 4c, 4e, 5a2). The rules ought to indicate clearly that abortion providers are ineligible for funds directly or serving as a sub-contractee.

The rules ought to require recipients who have referred a minor woman for an abortion to notify the parents immediately before any action is taken. A transcription of the Senate's floor discussion of the conference committee report on March 23, 1978, clearly indicates that parents were to be notified before any sterilization or abortion took place.

The second major concern I have with the draft rules relates to the appropriate allocation level of funds towards natural family planning. I recognize that natural family planning is an "approved family planning method". However, even though an agency says they will refer for NFP, there first must be teachers available to provide the service. The issue of allowing special grants for training instructors was discussed in the Senate Health, Welfare and Corrections committee hearing on February 23, 1978. At that time, the Department

and committee members indicated their support for the concept of making NFP services readily available. Those same assurances were repeated during the Senate Floor discussion on the conference committee bill on March 23, 1978. However, I see certain difficulties with the present draft rules in channelling money toward NFP organizations. I hope that you will work closely with them to make sure that our intent is carried out.

I thank you for the opportunity to receive and comment on your draft rules. I hope you're adequately able to massage the current draft to incorporate these specific prohibitions intended by the legislature against abortion and abortion providers, and to adequately fund NFP.

Sincerely,

Wayne Olhoft

Wayne Olhoft

pk

Winona County Community Health Services

P.O. Box ~~615~~ 255
Winona County Courthouse
Winona, MN 55987
Phone ~~454-1564 or 454-2815~~
454-2836

Winona County Community Health Services
Box 255
Winona, Minnesota 55987

Roger Neitzke
Chairman

Lynn Theurer
Project Director

August 2, 1978

Family Planning Special
Project Grant

Judi Kapuscinski
Family Planning Unit
Minnesota Dept. of Health

Dear Judi:

The Winona County Community Health Services Administrative Staff Has reviewed the July 17, 1978 memorandum and presented the Family Planning Special Project Grant proposal to the Winona County Board of Health and Advisory Board. Winona County will not be applying for a special grant.

Three philosophical issues entered into the decision. The present legislation, a categorical aid, seems in conflict with other existing state laws offering all persons the right to access for health care. Secondly, the rules and regulations derived from the legislation are restrictive in nature, thus impeding effective utilization of the special planning grant funds. The third issue is that the overall tone of the legislation and rules ask for comprimise professional ethics in spite of the legislative section, Subd 6. beginning line 30.

Although, the Winona County Community Health Services Board is not going to make application for funds, the following comments are made to consider the rules under Minnesota standard draft. The definition of one counseling interview technique is not only professionally restrictive - but how can it be enforced?

(Draft page 4 #4 Minnesota standard b. : 1.)

Draft page 5 #4 Minnesota standard k. : - The medical services review, although standard professional practice, are stated shall consist of. This again is restrictive in nature - especially when medical technology is a rapidly changing field.

Overall, more flexibility for the rules is suggested. Each Community Health Services Board does have to implement them for their local area and this requires flexibility.

Sincerely,
WINONA COUNTY
COMMUNITY HEALTH SERVICES

Lynn S. Theurer

Margaret R. Welch

SETON CENTER

57 WEST TENTH ST., ST. PAUL, MINNESOTA 55102 / 224-4805

CHARITY DEMANDS SERVICE



AUG 2 1978

PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

July 3, 1978

Mr. Rod Oldenburg
Family Planning Unit
Minnesota Department of Health
717 Southeast Delaware
Minneapolis, Minnesota 55440

Re: Interim rules for Family Planning
Special Project Grants

Dear Mr. Oldenburg:

This agency will not qualify for or be affected by Chapter 775, but I have read the draft of the Interim Rules, and I think they are comprehensive.

I have only one comment. Chapter 775, Section 1, Subd. 3, specifically excludes "...family planning services for any unemancipated minor in any elementary or secondary school building." In your draft, Rule 3h (page 4) requires services to "be provided without regard to age, sex, race, religion, marital status, income level, residence, parity, or presence or degree of disability except as otherwise required by law." Just to say except as required by law seems a little vague, and might be misleading to the person who has not read the law.

Sincerely,

Robert B. Miller

Robert B. Miller
Director

RBM:jk

CARLTON COUNTY BOARD of HEALTH

RECEIVED
JUL 03 1978
Executive Officer
Minn. Dept. of Health

2801 Dewey Avenue Cloquet, Minnesota 55720 218-879-6174

A Community Health Services Board of Carlton, Cook, Lake and St. Louis Counties

Public Health Nursing
Home Health Aide Services
Disease Prevention & Control

School Vision & Hearing Screening
Well-Child Screening Clinics
Family Planning

Community Health Education
Emergency Medical Services
Environmental Health

June 29, 1978

Doctor Warren R. Lawson
Commissioner of Health
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, MN 55440

Dear Doctor Lawson:

The Carlton County Board of Health has been aware for some time of additional monies for family planning. It has been our intent to determine if there is a need for additional services in our area as well as the feasibility of implementing these services. This intent and interest on our part has been directed towards the Multi-County Community Health Services staff as a request to explore the possibilities of applying for these funds as a multi-county.

At our last Board of Health meeting, Mr. Bruce Rowe informed us that a funding request has been initiated, but it has not been determined how this funding will be allocated. The Board of Health directed me to relate their concerns to you in the form of a letter. The Board is in strong opposition to the promulgating of new rules for a categorial funding that is specifically covered under existing legislation and rules, namely the CHS Act.

It is our understanding that the intent of the CHS legislation was not to duplicate rules and regulations placed on the local health providers for each category of funding, but rather to develop a systematic method of bringing funds into the local area based on a need assessment and total CHS plan approved by the MN Department of Health. Another, and possibly more urgent concern, is the time frame of five months required to promulgate regulations prior to the flow of dollars in respect to the period of time when this funding would expire. The requirements placed on the local CHS Boards for planning and application of this funding is in itself a time-consuming task, and when it is in addition to the time it takes for rule formation, it appears to be highly unfeasible that the services could be provided during the funding period.

We strongly urge you to consider these factors and remind you that our interest lies in providing needed services at the local level in the most efficient and economical way within the framework of the CHS legislation and regulations.

In closing, the Board of Health has requested that any public hearings concerning family planning or other categorical funding be also scheduled for the northeast region. We view this as essential for review of available funding and the opportunity to express our interest in the regulations surrounding the allocation of funds.

Thank you for your time and concern on our behalf.

Sincerely yours,

Janice L. Eckman PHN

Janice L. Eckman, CHS Coordinator
Carlton County Board of Health

JLE/blp

cc: Bruce Rowe

Jude Kapuscinski

RECEIVED
JUN 29 1978
Executive Officer
Minn. Dept. of Health

Minnesota Public Health Association, Inc.

"a growing organization for health"

June 28, 1978

Warren R. Lawson, M.D.
Commissioner of Health
Minnesota Department of Health
717 Delaware S.E.
Minneapolis, Minnesota 55440

Dear Dr. Lawson:

On behalf of the Governing Council of the Minnesota Public Health Association, I would like to address content areas which may be included in the proposed family planning rules. We would like to suggest the rules reflect that:

1. All grantees be required to provide, either directly or through an established referral system, a full range of family planning services from medical devices to infertility counseling;

2. Each individual served have an adequate medical assessment before choosing a method of family planning. An assessment would include, if appropriate, pap smear, blood pressure, breast exam, hemoglobin, urine analysis, VDRL and GC tests. We believe such an assessment will encourage the practice of preventive health care;

3. Grantees be prohibited from discrimination based on age, marital status, income or sex; and

4. Available state funds be distributed in a timely, equitable manner to organizations or governmental agencies expressing an interest.

We hope that you will support these suggestions for inclusion in the proposed rules.

Sincerely,

Donna M. Anderson

Donna M. Anderson, President

DA:lw

Como Station, Box 80015/Saint Paul, Minnesota 55108

an affiliate of the American Public Health Association

Multi-County Nursing Service

Becker County
Box 701
Detroit Lakes, Minnesota 56501
Phone 847-9237

Mahnomen County
Box 227
Mahnomen, Minnesota 56557
Phone 935-2527

Norman County
Courthouse
Ada, Minnesota 56510
Phone 784-7499

July 25, 1978

Judi Kapuscinski, Supervisor
Family Planning Unit
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Re: Draft Rules Relating to Family Planning Special Project Grants

Dear Ms. Kapuscinski:

Thank you for sending the draft Interim Rules for the Family Planning Special Project Grant. This does seem to reflect the intent of the legislation. However, I have a few questions and comments.

Under Section 3 (e) Content of Application, the proposed fees "must be charged in accordance with a sliding fee for services" schedule. However, under 3 (h) services must "be provided without regard to . . . income level." To provide services without regard to income level is inconsistent with the use of a sliding fee scale. The sliding fee scale discriminates heavily between income levels. Many present family planning programs are aimed at the lower income person and assisting that person to receive the services they desire. To remove the income guidelines from these programs would increase the caseload to the point that it would be virtually impossible to provide services to all that want it. Specifically, Multi-County Nursing Service has a Family Planning Subsidy Program. We subsidize family planning, physical exams and prescriptions for the low income participants in our counties. To remove the income guidelines would make this service available to everyone and would make it no longer feasible for us to provide the service. I would strongly recommend that this particular stipulation (3h) be removed from the rules or included in such a way that it does not make programs such as Multi-County's ineligible.

Under Section 6 (a) The Use of State Funds Available for Family Planning Grants, the allocation of the grant funds is discussed. This is unclear to me at the present. Perhaps this paragraph could be expanded to explain more thoroughly the exact allocation of funds to those applying for the grant. Also, the "exception of fiscal year 1979" is not explained, merely excepted. Part b states that family planning "funds may be used to supplant Community Health Services subsidy funds planned and budgeted for family planning". Could this money be used to <u>supplement</u> Community Health Services funding? The Multi-County Nursing Service Family Planning Program could serve more people by supplementing the Community Health Services funding instead of supplanting this funding. Multi-County could expand its Family Planning Program to offer services to more people if we could supplement this presently budgeted CHS fund, instead of having to supplant it.

JUL 27 1978

PERSONAL HEALTH
Minn. Dept. of Health

Another piece of information that might be included in the rules would be the time period in which the money must be used. Would it be at all possible to use the funds through December 31, 1979? This information will influence the decision whether or not to apply for the funding and how much funding to apply for. As I'm sure you've heard, it would be beneficial to use this funding through December 31 and not just until June 30.

Again, I would encourage you to move as quickly as possible to make this funding available to local agencies. The longer the money is available, the more it can be used to benefit those people in need of these services.

Thank you for the opportunity to respond to these rules.

Sincerely,

Barbara Albright

Barbara J. Albright, RN
Director/Administrator
Multi-County Community Health Services
Detroit Lakes, Minnesota

BJA:alh
cc:Terre St. Onge
District I, MDH
Bemidji, Minn.

INDIAN HEALTH BOARD
of MINNEAPOLIS, Inc.

2495 - 18TH AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55404
612-721-7425

RECEIVED
JUN 28 1978
Executive Officer
Minn. Dept. of Health

June 26, 1978

Dr. Warren Lawson
Commissioner of Health
Minnesota Department of Health
717 South East Delaware Street
Minneapolis, MN 55440

Dear Mr. Lawson:

The Indian Health Board of Minneapolis Inc., wishes to encourage the most expediant process of releasing family planning dollars available through the Department of Health.

Current Community Health Services legislation defines "Family Planning Services" under Suvdivision Plan 9, to mean counseling by trained personnel regarding family planning for the distribution of family planning information, examinations, referrals, medical treatment, prescriptions and genetic counseling. This also includes the distribution of family planning products such as charts, thermometers, drugs, medical preparations, and contraceptive devices.

The Indian Health Board is currently providing these services without the support of family planning dollars.

We have over 300 family planning encounters annually. These dollars once released by the department would be utilized for teaching and contraceptive devices and related costs.

We wish to encourage the department to expedite the process for the

release of family planning dollars. The existing Community Health Services language we feel is appropriate and that a direct contract with Department of Health would represent a viable and expeniant method for the funding of family planning services in the community.

Sincerely,

Norine Smith

Norine Smith
Director

Form 3-21

ST. LOUIS COUNTY HEALTH DEPARTMENT

JUL 3 1978

PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

To: Judy Date: 6/28/78

From: Marilyn Swanson
Public Health Educator
St. Louis County Health Department
910 South 8½ Street
Virginia, Minnesota 55792

As a long time worker with family planning, I'm writing to you to encourage some liberal guidelines for the FP money.

I'm hoping there will

$ for films, brochures, A-V aids along the lines of sex ed. through the grades, hopefully some help to a struggling Teen Parent program here so we can provide secondary prevention & get these girls back to school or work.

Hope its OK to refer some clients to Planned Parenthood as rural set-up do not do abortions.

MINNESOTA WOMEN'S POLITICAL CAUCUS

1821 UNIVERSITY AVE., Room S 291
ST. PAUL, MINNESOTA 55104
TELEPHONE (612) 646-5865

NATIONAL WOMEN'S POLITICAL CAUCUS

JUN 22 1978

PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

TO : Minnesota Department of Health

Attention: Ms. Judi Kapuscinski

RE : Rules and Regulations on Funding Family Planning

The Minnesota Women's Political Caucus has volunteered untold hours over the past several years in order to attain adequate family planning funding. We recognize that the appropriation from the last Legislature is but a fraction of what is needed, and so we are particularly anxious to be helpful to you as Regulations are developed.

There are several areas which concern us, and we shall highlight but two.

We assume you have tight restrictions as to qualifications of all medical personnel, and we would not want to see your standards relaxed for anyone receiving funds in so crucial an area. That includes Natural Family Planning.

But most important to us is that all females be included in all services. We have watched with dismay restrictions on age or economic status or even marital status placed on services to women in other areas, here and throughout the nation. If people are to have the opportunity to plan, they must be treated as people from the time they can be parents. Though parents have the responsibility to communicate expected standards of a family from the birth of a child, it is naive to assume that parents who have been inadequate as communicators for a decade would suddenly become articulate when a child reaches puberty. That means youth must have available to them the opportunity to do the planning if parents haven't helped.

We appreciate your efforts.

Cordially,

Elin Malmquist Skinner

Elin Malmquist Skinner
Chair

EMS:agf

SEMCAC, INC.

157 Lafayette • Box 712 • Winona, MN 55987 • 452-4307

June 5, 1978

RECEIVED
JUN 0 8 1978
Executive Officer
Minn. Dept. of Health

Warren Lawson, M.D.
Commissioner of Health
Minnesota Department of Health
717 Delaware, S.E.
Minneapolis, Mn. 55445

Dear Dr. Lawson:

We are aware of the state monies available for family planning services and being a family planning provider, we are very interested in how the monies are appropriated. SEMCAC has been a family planning provider for 10 years in the counties of Fillmore, Houston and Winona. Due to this experience, we feel we have developed a certain expertise in the area of Family Planning. We have reviewed the legislation and its restrictions and we have a number of concerns regarding the possible impact of this legislation on the existing service delivery system.

These concerns are:

1) There are no legislative mandates regarding the comprehensive nature of the programs to be funded. Patients should be guaranteed the availability of all contraceptive methods in a non-judgemental atmosphere. Methods to include are A) Birth Control Pills, B) IUD's, C) Diaphragms, D) Foam and Condoms, E) Natural Family Planning Methods and Sterilization.

2) The parental notification provision will restrict rights of consent guaranteed in the Minors Health Act of 1971.

3) If conservative interpretations of the legislation result in rules banning family planning education in the public schools the impact of the funding would be seriously lessened in the high risk teenage population.

4) There are no legislative mandates regarding the provision of medical services. The existing service system has consistent high standards for medical services and anything less would be a step backward in the delivery of family planning care in Minnesota.

5) There are no legislative mandates as to program and patient care standards of quality.

6) There are no legislative references as to methods of monitoring or evaluation of programs, services provided, administrative costs or per patient costs.

7) There are no legislative references to the Minnesota State Plan for Family Planning Services adopted by the Board of Health in 1974. Since program and service guidelines have been accepted by MDH it seems inconsistent that they not be applied to state family planning funds.

SEMCAC, Inc.
Box 549
Rushford, MN 55971
864-7741

SEMCAC, Inc.
11½ 2nd Ave. N. W.
Kasson, MN 55944
634-2931

SEMCAC, INC.

157 Lafayette • Box 712 • Winona, MN 55987 • 452-4307

We hope these concerns will be addressed in the rule making process. We are requesting notification of the public hearing at which we would be available for testimony.

We would also appreciate being kept informed of any new developments in this area.

Thank you.

Sincerely,

SEMCAC, Inc.

Halvor Lacher
Executive Director

David Hinckley
Health Divisions Manager

Judy Oldendorf R N

Judy Oldendorf, R.N.
Family Planning Program Manager

HL:DH:JO/jf

SEMCAC, Inc.
Box 549
Rushford, MN 55971
864-7741

SEMCAC, Inc.
11½ 2nd Ave. N. W.
Kasson, MN 55944
634-2931

DONALD E. SHANNON, Executive Director

PROJECTS:

- Community Organization
- Head Start/Home Start
- CETA Youth Programs
- Family Planning
- Community Food & Nutrition
- Energy Program
- Nobles County Transportation
- Worthington Taxi Program
- Home Improvement Program
- Construction Expeditor
- Weatherization of Homes

SOUTHWESTERN MINNESOTA
OPPORTUNITY COUNCIL, INC.

P.O. Box 393
1152 OXFORD STREET
WORTHINGTON, MINNESOTA 56187
TELEPHONE 376-4195 or 376-4196
Community Action Agency
Serving Murray, Nobles, Pipestone, Rock Counties

RECEIVED
JUN 14 1978
Executive Officer
Minn. Dept. of Health

June 12, 1978

Warren Lawson, M. D.
Commissioner of Health
Minnesota Department of Health
717 Delaware, S. E.
Minneapolis, MN 55445

Dear Dr. Lawson:

As a Community Action Agency and provider of comprehensive family planning services for a nine county area in southwestern Minnesota, we realize the potential the state appropriated funding holds for Minnesota residents.

At this time there are a number of concerns regarding the appropriation. The lack of legislative references to the Minnesota State Plan for Family Planning Services adopted by the Board of Health in 1974 is most notable. The Plan addresses needs, problems, and goals which would naturally be applicable to the family planning dollars. Specifically, a provision for medical services for women served is identified as a minimum requirement to maintain the quality of health service currently provided through agencies such as ours. Since the teenage population has been targeted as a high risk group in this matter, legislation interpretation is a key factor in determining whether or not this group receives, or in some instances, would continue to receive necessary information through the public schools and community education efforts. It is imperative that these and related issues be addressed in conjunction with the drafting of rules by the Minnesota Department of Health.

I am most interested in testifying in this rulemaking process. Additionally, a request is made that this agency be notified of the public hearings.

Take note

Sincerely,

Donald E Shannon

Donald E. Shannon
Executive Director

DES/blh

May 22, 1978
Foley, Minnesota 56329

Dr. Warren Lawson
Commissioner of Health
717 SE Delaware Street
Minneapolis, Minnesota 55440

Dear Doctor Lawson:

I am writing about a matter that is very important to me and to many other persons whom I know.

It seems important to me that a good portion of the 1.3 million dollars allocated by the Minnesota State legislature for family planning be allocated for natural family planning.

There is an increased awareness today of the integrity of nature and a return to nature. This greater respect for nature includes the order within human nature & human bodies, which when followed, results in improved bodily health.

The Natural Family Planning centers offer much needed service to the public about human fertility. Much more could be done if more funds were available to educate instructors & to make available the teaching materials which are needed.

Since natural family planning is unique, it is much better to teach it separately so as not confuse it with other family planning methods which seem to aim at contraception primarily. Natural Family planning is a broader approach aimed at fertility awareness and a mature handling of this awareness by a human intelligent individual.

Your consideration of this request and your assistance with Natural Family Planning are appreciated.

With cordial best wishes.

Sincerely yours,
Robert C. Harren
Robert C. Harren

Otter Tail - Wadena
Community Action Council, Inc.

RECEIVED
JUN 0 5 1978
Executive Officer
Minn. Dept. of Health

Tel. 218-385-2900
Post Office Box L
New York Mills, Minn.
56567

To F.P
for reply
6/6/78 - C

June 1, 1978

Warren Lawson, M.D.
Commissioner of Health
Minnesota Dept. of Health
717 Delaware S.E.
Minneapolis, MN 55445

Dear Dr. Lawson,

The State Legislature has appropriated state monies for the delivery of Family Planning care. It is in regard to this bill that I am writing to you.

A number of concerns have prompted me to contact you since I understand the Minnesota Department of Health will draft rules governing program services and eligibility regulations.

Among my concerns are:

1) The legislation on delivery of services indicates there are no mandates as to patient care or quality of standard care (i.e. each family planning patient receive yearly pap smear, breast exam, lab work, etc.)

2) There are no references made to the 1974 Minnesota State Plan for Family Planning services adopted by the Board of Health. Since these program and service guidelines have been approved by MDA, it would seem they should be applied to the State Family Planning funds.

3) The parent notification of this legislation will restrict the legal rights guaranteed to minors in the state that was enacted in 1971 (Minors Health Act of 1971).

4) The rules banning Family Planning Education in the public schools would have a serious impact on the high risk teenage population.

5) There is no legislature mandate regarding the comprehensive nature of the programs to be funded. Patients should be guaranteed in a non-judgemental atmosphere the availability of all contraceptive methods (i.e. oral contraceptives, IUD, foam, diaphragm, creams, jellys, condoms, vaginal suppositories, Natural Family Planning, sterilizations), and should be given that personal freedom to choose whichever method is right for each individual.

6) There are no mandates in the bill regarding provision of delivery of medical services. Existing service systems have very high standards for medical services and quality and consistancy. Anything less would be a step backward. I would like to see the delivery of family planning care in Minnesota reach a goal of continuing medical care, contraceptive care, counseling, and follow-up care of the highest degree the state can offer through well planned and well organized efforts.

7) No references are made as to methods of monitoring or evaluation of programs, services provided, administrative costs, or per patient costs. As a tax payer and Family Planning service provider, I would like to know where the money is going, where it is being used, and how much is actually being spent for the people of the state in actual family planning care.

I hope you will consider the above points. As a resident of the state and Family Planning service provider, I expect very comprehensive and thoughtful attention be given by you in the drafting of the rules, and urge that you address the above concerns.

Will you please notify me of the public hearings? Also, I would be interested in providing oral or written testimony in the public hearing process.

Sincerely,

Roberta Vorderbruggen

Roberta Vorderbruggen, LPN
Family Planning Project Director

Approved by:

Roy W. Isaacson

Roy W. Isaacson
Executive Director

RV:cab

cc: Judi Kapuscinski

5-23-75

Dear Dr. Lawson,

I have learned that the Minnesota State Legislature has allocated 1.3 million dollars for family planning.

I am a teacher of Natural Family Planning and have recently started a NFP center in Foley, Minn. So far we have been financed by private donations.

We have many expenses such as; office supplies, user materials, teacher materials, postage, phone, printing and copying, training expenses, workshops and instructor training and travel expenses. As of now I do not

receive a salary because of shortage of funds. It is very important that we provide quality instuction and quality instructors. Instuctors must have periodic updating with attendance at workshops or similar gatherings of NFP Perpetuators. All of this is difficult because of our limited budget.

Also it is important that NFP be taught separately and distinctly from other methods, because NFP has to be taught by a qualified instuctor and NFP teachers must be users of natural

methods to enable them to instruct correctly.

So in conclusion Dr. Lawson would you please see what can be done about giving NFP fair funding.

Thank You

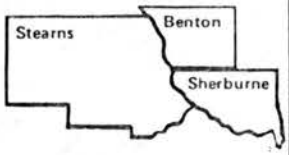
Sincerely,
Sue Jacquette
R.R 4
Foley, Minnesota
56329

Telephone: (612) 251-1612

Post Office Box 1205
315 St. Germain
St. Cloud, Minnesota 56301

TRI-CAP

TRI-COUNTY ACTION PROGRAMS, INC.



Community Outreach
CETA Youth Employment
Center-Based Head Start
Home-Based Head Start
Early Childhood Center
Family Planning Center
Agricultural Technical Assistance
Community Development Project
Nutrition Programs
Senior Transportation
Home Winterization
Financial Counseling

June 1, 1978

Family Planning Unit
Minnesota Department Of Health
717 S.E. Delaware Street
Minneapolis, Minnesota
55445

Dear Judi Kapushinski:

The field of Family Planning has finally won a victory when during the 1978 Legislature funds were appropriated for the first time to deliver Family Planning services in Minnesota. But, before any kind of celebration can take place, many issues must be raised regarding possible impact of this legislation on the service delivery system already in esistance in Minnesota. Among these concerns are:

1.) If conservative interpretations of the legislation result in rules banning family planning education in the public schools the impact of the funding would be seriously lessened in the high risk teenage population.

2.) There are no legislative mandates regarding the comprehensive nature of the programs to be funded. Patients should be guaranteed the availability of all contraceptive methods in a non-judgemental atmosphere.

3.) There are no legislative mandates regarding the provision of medical services. The existing service system has consistent high standards for medical services and anything less would be a step backward in the delivery of family planning care in Minnesota.

4.) The parental notification provision will restrict rights of consent guaranteed in the Minors Health Act of 1971.

5.) There are no legislative references to the Minnesota State Plan for Family Planning Services adopted by the Board of Health in 1974. Since program and service guidelines have been accepted by MDH it seems inconsistent that they are not applied to state family planning funds.

COMMUNITY SERVICES ADMINISTRATION
JUN 5 1978
PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

Con't

6.) There are no legislative mandates as to program and patient care standards of quality.

7.) There are no legislative references as to methods of monitoring or evaluation of programs, services provided, administrative costs or per patient costs.

These are a few of the major concerns that I feel should be very seriously considered and looked at before any permanent rules are implemented. I do have an interest in testifying in the rules making process and request notification of any of the public hearings.

Sincerely yours,

David H. Oliver

David H. Oliver, Director
Family Planning Center

cc: Warren Lawson M.D.

Family Planning Center
26½ 7th Avenue North
St. Cloud, Minnesota
56301

RECEIVED
MAY 25 1978
Executive Officer
Minn. Dept. of Health

PERC --- of Minnesota
Public Education & Research Committee
1562 University Avenue, St. Paul, Minnesota 55104 [612]646-9603
P.O. Box 7670 55119

May 22, 1978

Commissioner Lawson
Minnesota Department of Health
717 S.E. Delaware St.
Minneapolis, Mn. 55440

Dear Commissioner Lawson:

It has been brought to the attention of the PERC membership that the Minnesota Department of Health is now preparing rules for the distribution of the funds appropriated under Chapter No. 775 (Family Planning).

The members of PERC have certain concerns about the distribution of these funds. We feel that the grants should not be replacement funds for money currently appropriated by C.H.S. or other sources but should provide for new programs.

Second, the rules should assure that agencies will not refuse services to minors or the unmarried.

Third, grantees should be able to provide a wide spectrum of Family Planning Services. This should include all accepted means of birth control, counseling services and help for infertile couples. Special services for women such as pap smears and blood tests should be available. Where it is a hardship for a grantee to provide all these services, there should be an established referral system.

Finally, the grantees should in the application state their program for outreach since such programs were considered to be of prime importance by the authors of the legislation.

We are hopeful that if the above concerns are addressed in the rules that the funds appropriated by Chapter No. 775 will add to the quality of family planning in this state.

Sincerely yours,

Janet Gabor

Janet Gabor
PERC Chairperson

May 18, 1978

Mr. Neil Johnson, Interim Director/Planner
American Indian Fellowship Association
Two East Second Street
Duluth, Minnesota 55802

Dear Mr. Johnson:

Thank you for your letter of May 10, 1978, in which you support the distribution of family planning special grant funds through the Community Health Services system. It is our intention that local Boards of Health be given first priority for receipt of these funds.

We appreciate your interest and comments. If I or a member of my staff can provide additional information, we will be pleased to do so.

Sincerely yours,

Warren R. Lawson, M.D.
Commissioner of Health

RLC

(218) 722-9776

AMERICAN INDIAN FELLOWSHIP ASSN.

101 N. 1st AVE. E.
DULUTH, MINN. 55802

Envelope Return! Two East 2nd st.

Orig.: PHS
xc: CHS 5/15/78 MM

RECEIVED
MAY 12 1978
Executive Officer
Minn. Dept. of Health

May 10, 1978

TO Family plans
Sw wks
5/16/78

Warren R. Lawson, M.D.
Commissioner of Health
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Dear Dr. Lawson:

In the last legislative session a bill was enacted to provide Family Planning funds to various groups including nonprofit organizations (Chapter 775 H.F. 2098). As a representative of a nonprofit organization which has participated in receiving Community Health Services funding, we feel that the mechanism currently exists through C.H.S. Board to appropriate the money immediately for these services.

Health services are a top priority for our agency. We feel that the sooner these funds can be made available the better it will be for our program. I urge you to support the allocation of these funds through the Community Health Services Board. We have an excellent working relationship with our local Board and this appears to be the most expedient way to spend the money.

If you have any questions of our agency about this matter please feel free to call on me.

Sincerely,

Neil Johnson

Neil Johnson
Interim Director/Planner

cc: Bruce Rowe
Margaret Sandberg

NJ/cp

(218) 722-9776

AMERICAN INDIAN FELLOWSHIP ASSN.

101 N. 1st AVE. E.
DULUTH, MINN. 55802

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Orig.: PHS
xc: CHS 5/15/78 MM

RECEIVED
MAY 12 1978
Executive Officer
Minn. Dept. of Health

May 10, 1978

Warren R. Lawson, M.D.
Commissioner of Health
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Dear Dr. Lawson:

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If you have any questions of our agency about this matter please feel free to call on me.

Sincerely,

Neil Johnson

Neil Johnson
Interim Director/Planner

cc: Bruce Rowe
Margaret Sandberg

NJ/cp

May 19, 1978

Mrs. Jane Bose, Director
Pregnancy Counseling Program
Children's Home Society of Minnesota
2230 Como Avenue
St. Paul, Minnesota 55108

Dear Mrs. Bose:

Thank you for your letter of May 10, 1978, in which you indicate your interest in implementation of the recently passed family planning legislation (MN Laws, 1978, Chapter 775).

We are currently in the process of proposing rules for the implementation of this Act. Your comments regarding such rules will be given careful consideration.

We appreciate your interest and if I or a member of my staff can provide additional information, we will be pleased to do so.

Sincerely yours,

RHC

Warren R. Lawson, M.D.
Commissioner of Health

WRL/JK/vs

CHILDREN'S HOME SOCIETY OF MINNESOTA
CHILD AND FAMILY SERVICE SINCE 1891

Children's Home Society of Minnesota

2230 COMO AVENUE • ST. PAUL, MINNESOTA 55108 • (612) 646-6393

Harlan B. Strong, Jr., *President*
Orono

Roger W. Toogood, *Executive Director*

RECEIVED
MAY 15 1978
Executive Officer
Minn. Dept. of Health

May 10, 1978

Commissioner Warren Lawson
Minnesota Department of Health
717 Delaware St. S.E.
Minneapolis, Minnesota 55440

Commissioner Lawson:

Children's Home Society of Minnesota, a non-sectarian agency which provides among other programs, pregnancy counseling services to unmarried parents, is very interested in a realistic and productive implementation of the Family Planning Bill H.F. 2098, S.F. 2143.

The following is a list of our concerns and requests for the rules now under consideration for the purpose of determining allocation of grant funds under the recent Family Planning Grant Bill H.F. 2098, S.F. 2143. Our concerns stem from our knowledge of and association with family planning issues, its availability and its effect on the various populations we and other social service agencies currently serve.

1. We request that one requirement of receipt of funding be the the existance or establishment of an "umbrella of services."

2. We request that grantees be prohibited from discriminating on age and marital status.

3. We request that grantees be required to provide medical services in addition to and in conjunction with family planning.

4. We request that grant money be allocated to include both existing and/or new, innovative outreach programs.

5. We request that the level of family planning services now in operation be maintained and that grant money not be replacement funding but rather expansion funding.

We appreciate your consideration of our thinking and look forward to an expeditious implementation of the services to be provided under this new law.

Sincerely,

(Mrs.) Jane Bose, ACSW
Director, Pregnancy Counseling Program

JB:rp

ACCREDITED CHILD WELFARE LEAGUE OF AMERICA MEMBER

Multi-County Nursing Service

RECEIVED
MAY 22 1978
Executive Officer
Minn. Dept. of Health

Becker County
Box 701
Detroit Lakes, Minnesota 56501
Phone 847-9237

Mahnomen County
Box 227
Mahnomen, Minnesota 56557
Phone 935-2527

Norman County
Courthouse
Ada, Minnesota 56510
Phone 784-7499

May 18, 1978

Warren Lawson, M.D.
Commissioner of Health
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Dear Dr. Lawson:

Several encouraging pieces of legislation were passed during the recent session. These could have a direct, positive effect on the health care we provide in our communities. Specifically, the Family Planning Bill (Chapter 775 H.F. 2098) could be of great benefit. However, to be of much use at all, this money must be accessible and the sooner it is available to local agencies, the better it can be utilized.

Multi-County Community Health serves three rural counties in the Northwestern area of our state. Becker, Mahnomen and Norman Counties are composed of approximately 40,000 people. Our communities consist of hard-working people, many of whom are barely making ends meet. Multi-County Nursing Service has been helping subsidize family planning services through our local physicians and the Moorhead City Health Department. Our program has been increasing rapidly recently which shows the need for this service.

We would like to encourage you to make the Family Planning funds available as soon as possible. If a new set of rules must be promulgated and the money is not available until winter, it is doubtful we would apply for it. To revise our Plan at that late date for six months of funding would require more effort than benefit. If available under the existing Community Health Services rules, we would apply for it immediately.

At the recent Community Health Service Advisory Committee meeting, a resolution was passed requesting you to make this funding available under the existing appropriate CHS rules. The Multi-County Board of Health supports this resolution and encourages you to seriously consider this alternative. As stated before, these funds can provide great benefits only if they become available quickly.

Yours truly,

Barbara J. Albright

Barbara J. Albright, PHN
Director/Administrator
Multi-County Community Health Services
Detroit Lakes, Minnesota

BJA:alh
cc:Mr. Robert Poyzer
cc:Mrs. Terre St. Onge

RECEIVED
MAY 24 1978
Executive Officer
Minn. Dept. of Health

Foley, Minn.
May 22, 1978

Dear Sir:

I am writing to you in regard to the 1.3 million dollars that has been allocated by the Minnesota State Legislature for family planning.

As a teacher of "Natural" Family Planning I believe the "Foley Deanery Natural Family Planning Center" is entitled to some of the money. At present we are funded by private donations. The teachers in the area are donating their time. I feel that "Natural" family planning is much needed. Many people especially the young are looking more towards the natural way of doing things - including family planning and childbirth.

We are in great need of financing

for materials, office supplies, salaries, travel expense, good training for our teachers, postage, printing and copying.

Natural Family Planning needs to be taught by a special group of teachers - people who love and are using the method and have been trained by experts in the Natural Family Planning field.

I am hoping you will take this under consideration.

Thank you.

Letha Corrigan
R. 1 Box 90
Foley, Minnesota
56329
(N.F.P. Instructor)



DOUGLAS
GRANT
STEVENS
TRAVERSE

Community Health Services Agency

SHIRLEY FAEHNRICH, R.N.
Director, Douglas-Grant
Public Health Nursing
Box 823
Alexandria, MN 56308
612/763-5438

JEROME A. CREST
Administrator
111 17th Ave. E.
Alexandria, MN 56308
612/762-1511

MURIEL GUNDERSON, R.N.
Director, Stevens-Traverse
Public Health Nursing
Box 404
Morris, MN 56267
612/589-2294

RECEIVED
MAY 04 1978
Executive Officer

May 3, 1978

Warren Lawson, M.D.
Commissioner of Health
Minnesota Department of Health
717 Delaware Southeast
Minneapolis, Minnesota 55440

Dear Commissioner Lawson:

At the April 28th meeting of the Community Health Services Advisory Committee, there was considerable discussion regarding the upcoming family planning grant program and how those funds might be administered. I understand why the department staff might desire to have certain rules outlined for the administration of these funds prior to allocating them to various Community Health Services Agencies and other non-profit corporations. While the argument could be made that current CHS rules would suffice for this allocation of funds, this is not the purpose of this letter.

My primary concern is that the block grant concept of the Community Health Services Act appears to be a very sound mechanism for allocation of state funds to the local level. There will always be some special interest groups which will have an impact upon the legislature and cause the legislature to pass a law which will provide funding for programs advocated by these special interest groups. Family planning is one of those special interest groups which was obviously very effective in the last session of the legislature. It is my personal hope that the Department of Health will find some way of combining the advantages of the block grant concept, and its nicely streamlined administrative burden, with the availability of funds created through efforts of these special interest groups. This was recently accomplished effectively by transferring Department of Transportation funds designated for emergency medical services to the Community Health Services budget, and utilized by your department to make it possible to fully fund CHS agencies in 1978. It would seem the recently allocated family planning funds could be handled in a similar manner.

The initial allocation of funds may have to be made based upon individual grant proposals because of the timing. However, I would encourage you to instruct the MDH staff to draft the rules in such a way that a CHS Agency which chooses to include family planning as a part of its total program could do so by including it in their program plan and budget. To the extent that the county or counties represented by

that agency is eligible for family planning money, those funds would come from the family planning grant program. Any funds over and above their "fair share" requested by a CHS Agency would then be allocated out of CHS funds. This would have the effect of streamlining the process for all agencies in the state and likely for the Minnesota Department of Health as well. Coordination would continue to be present for the Department of Health and for local health departments, and community input will have been sought and will have affected the form of the program proposal.

I thank you very much for this opportunity to provide input on this important issue. There is a great deal of concern that these funds be made available as soon as possible so they may be put to the most effective use and not be put into a crash spending program. I was pleased to hear that you and your staff are working diligently to accomplish this task, and wish you the very best in negotiations with the Attorney General's office and internally as you attempt to expedite this process.

Sincerely,

Jerome A. Crest
Administrator
JAC/dk

cc: Bob Hiller, Asst. Commissioner
Community Health Services
Minnesota Department of Health

9650 103 St. No.
Stillwater, Minn.
May 13, 1978

Minnesota State Department of Health
717 S.E. Delaware
Minneapolis, Minnesota

RECEIVED
MAY 16 1978
Executive Officer
Minn. Dept. of Health

Dear Dr. Lawson,

I am a member of the Public Research and Education Committee. We were discussing implementation of the Family Planning bill. There are several matters that I think very important to the quality of services offered.

One is that medical services such as pap smears and blood tests be provided patients by all dispensing agencies.

Another is that there be no discrimination based on age or marital status.

Another important consideration should be that the money will be in addition to and not replacement funds available for family planning from other sources.

Yours truly,
Harriet Olvis
(Mrs. Clement)

RECEIVED
APR 28 1978
Executive Officer
Minn. Dept. of Health

minneapolis
city of lakes

HEALTH DEPARTMENT
PUBLIC HEALTH CENTER
250 SOUTH FOURTH STREET
MINNEAPOLIS, MINNESOTA 55415

ELLEN ALKON, M.D., M.P.H.
COMMISSIONER OF HEALTH

April 25, 1978

Dr. Warren Lawson
Commissioner of Health
Minnesota Department of Health
717 SE Delaware
St. Paul, Minnesota 55107

Dear Dr. Lawson:

We would like to commend you and your staff for your efforts in securing passage of the family planning bill and appropriation in this past legislative session.

We understand that you are now in the process of developing rules and procedures for the allocation of these funds for family planning services. The Minneapolis Public Health Advisory Committee (PHAC) urges you to establish rules that will provide for the distribution of these family planning funds through the local boards of health organized under the Community Health Services Act.

Because of the experience of the PHAC in planning and evaluating community health services over the past two years, Minneapolis has an established mechanism for considering and determining local family planning needs. We would hope this local system for developing and coordinating community health services would be used and reinforced by channeling these new family planning funds through it. This would be consistent with both the overall purpose of the CHS Act which emphasizes local responsibility and control and the intent of the new family planning section for allocating funds to address local family planning needs.

As the CHS Advisory Committee for the City of Minneapolis, we have just completed our review of health problems and are beginning to develop programs for CHS funding in 1979. In the preliminary ranking of health problems, the PHAC rated unplanned or unwanted pregnancies as its first priority. Enclosed is the summary statement we have developed of this problem.



EQUAL OPPORTUNITY EMPLOYER

In the 1978 Minneapolis CHS Plan, we have allocated $83,866 to family planning. About $10,000 more is needed in 1978 for existing services without considering possible expansions. In 1979 we will need about $155,000 for maintaining these services because of the probable loss of Title XX Social Service funds and increased costs. As you know, our CHS subsidy level has remained constant. Accordingly, for 1979 we are faced with some serious reductions in community health services. The new family planning funds could help us to maintain and expand family planning services thereby allowing us to maintain other community health services.

Since Minneapolis will be submitting its preliminary CHS plan to Hennepin County on June 16, 1978, it would be especially helpful to us to know your decision about the allocation of family planning funds before this date.

Sincerely,

Barbara Dols

Barbara Dols,
Chairperson PHAC

James Kenney

Dr. James Kenney,
First Vice-Chairperson

Doug Shaw

Doug Shaw,
Second Vice-Chairperson

JT:gpj
Enclosure

APR 28 1978
Executive Officer
Minn. Dept. of Health

2. Unplanned or Unwanted Pregnancy

Nature: Studies indicate nearly everyone in the United States, regardless of ethnic, religious, or socio-economic background, aspires to a smaller size family. Many of these people use, or expect to use, a contraceptive method. Although many effective contraceptive methods exist, unintended pregnancies occur, as reflected by the increasing numbers of reported abortions. The reliance on abortion as a major birth control measure is of particular concern. The 4,985 live births to Minneapolis residents in 1976 represent a 39.7% decline from the 8,263 births in 1970. The percent of out-of-wedlock births among City residents increased from 18.6% in 1970 to 27.1% in 1976. Among teenagers, the 564 out-of-wedlock births in 1976 represent 73.1% of the total live births to teenagers.[1] These young women also experienced higher neonatal and infant mortality rates than older women. Because of changing social mores relating to marriage, out-of-wedlock rates are not entirely reflective of unplanned or unwanted pregnancy, but continue to be a strong indication.

Continuity of care is essential for effective use of contraception. The high percentage of women receiving abortions who have used contraception in the past, but were not using it at the time of conception may be one index of the lack of continuous care. In 1977, in the Minneapolis Health Department Family Planning Project, the ratio of continuation patients to total patients seen in the preceding year was 53%. While some of this discontinuity is due to patients moving or transferring to another resource, some of it is the result of a complex process (although not necessarily a conscious one) leading to an often passive decision not to contracept.[2]

Extent: The estimated number of low and marginal income women in need of family planning services in Minneapolis was 16,728 based on the Dryfoos Formula using 1970 census data. A 1975 Planned Parenthood study indicated that about 36% (6,022) of these women were not being served. Although data necessary for updating this estimation is not available, statistics on abortions provide an indication of continuing family planning need. In 1975, there were 2,172 reported abortions and 5,128 live births; this represents one abortion for every 2.4 live births. In 1976, there were 2,731 reported abortions and 4,985 live births; one abortion for every 1.81 live births. This is a 25.7% increase in abortion. The increase was even more striking for teenagers. The 886 abortions reported for women age 19 or less in 1976 represents a 35.1% increase over the level in 1975. With 772 live births among teenagers in 1976, there was one abortion for every .87 live births. The Minneapolis abortion surveillance data suggests that there are still many women in Minneapolis in need of family planning services not receiving them. In 1976, 22.6% of women having abortions had never used any form of contraception in the past, and an additional 56.8% had used contraceptive methods in the past and were not using them at the time they became pregnant.[3] This data accents the need for improved outreach for family planning services.

Existing and Potential Consequences: The consequences of an unwanted pregnancy are serious: multiple abortions can interfere with future successful pregnancies; emotional turmoil and social stress such as interruption of schooling and disruption of family ties can have life-long effects upon the mother; in adolescents, the risk of morbidity and mortality for the mother and for the child is increased; and if the unwanted conception results in a child who is kept, but rejected emotionally by his or her mother, physical and emotional nurturance of the child is impaired. The consequences of an unwanted pregnancy can extend throughout the life of the mother and child.

Low birth weight is correlated with high mortality rate and increases the possibility of mental retardation, neurological handicaps, eye defects, and other medical problems. Incidence of low birth weight is correlated with socio-economic status, multiple births, young mothers, mothers over age 35, first pregnancy, five or more pregnancies, smoking mothers and illegitimacy.[4]

Existing Service/Program Resources: The 1975 Planned Parenthood Study indicated that about 10,700 low and marginal income women were receiving family planning services. Major resources serving these women include Hennepin County Medical Center, Metro Community Health Consortium Clinics, Minneapolis Health Department, Pilot City Health Center, Planned Parenthood and Teen Age Medical Services.

May 5, 1978

Dr. Warren R. Lawson
Commissioner of Health
717 S. E. Delaware Street
Minneapolis, MN 55440

Dear Dr. Lawson:

Thank you for your letter of March 30, 1978. You state in your letter that the outreach and counselling components of health care related to family planning will be the main thrust of funding at this point in time. Can I interpret this outreach as being an educational program to alert people as to what methods are available and than counselling these people as to which method they should use? I personally feel that this would be a valuable use of the monies. I really question the value of duplicating medical services that are already in place in the community, such as examinations, Pap smears and dispensing of pills and IUDs.

We, in Natural Family Planning, would earnestly like to participate in an outreach program of education. However, I am afraid that the thrust of our education would be different than the education that is contemplated and presently used. As you know, our culture states that the ideal contraceptive will allow intercourse at any place, at any time and places a high value on the spontaneous act of intercourse. The motivation for this education is the reduction of pregnancies by introducing a contraceptive mentality into the population. Seldom does an outreach program emphasize the value of abstinence in a relationship and as a result, places tremendous peer pressure on teenagers to engage in sexual activity at an early date -- the idea that, why not, you won't get pregnant. We both know that the educational program at this point in time has not been successful, either in reducing the number of pregnancies in young people or in preventing the spread of gonorrhea or syphilis. During my days in the Service I was constantly bombarded with information that was supposed to keep the troops from contracting venereal disease. It is well documented that the rate of venereal disease during World War II was not materially affected by this educational program.

MAY 0 5 1978

PERSONAL HEALTH SERVICES-MCH
Minn. Dept. of Health

Since the approach to contraception depends upon the type of advocacy that is available, certainly the direction of the individual choice will be materially shaped by the advocate. To this point in time, Planned Parenthood and doctors' offices have not supported a natural family planning to any degree. However, the physicians attending patients at North Memorial Medical Center during the past year have begun referring patients to our clinic on a regular basis, not because of what we have claimed, but because of the feedback they get from their patients who have taken our classes.

As President of the Twin Cities Natural Family Planning Center, I have repeatedly asked our instructors not to encourage natural family planning because of the dangers of taking the birth control pills or pointing out the negative effects of the IUDs and sterilization, but rather, I have told them if natural family planning is going to be of value, it is going to be of value because it is going to have a positive program which can stand on its own two feet beside any method of family planning. Therefore, in an outreach program I wonder if it would be possible to include presentations of natural family planning, pointing out the anatomy, physiology to those individuals that are seeking the information. Secondly, we in natural family planning feel that counsellors that accept the ideal of spontaneous intercourse at any place, at any time, would find it extremely difficult to advocate for a periodic abstinence in planning a family.

There are those that would make this a moral issue. Experience at Twin Cities Natural Family Planning reveals that less than 20 per cent take our classes because of moral convictions, so that means 80 per cent of the people are coming to us because they desire another method of family planning, a natural method of family planning. At this point in time we are afraid to advertise because of our lack of qualified instructors. Our present program involves teaching 300-400 couples a year and until we can receive some significant financial support, it will be necessary for us to continue at this level. Minnesota would be a pacesetter in the area of natural family planning if some means were found in which the natural family planning movement could participate with other agencies in getting their message to a large group of people. Perhaps this program will fail. I doubt this or I would not be spending my time participating in the program. But at this time we don't know if it is an effective method of family planning or not. We don't know if it can be effectively taught to large

groups of people. We don't know whether a large group of people want this type of family planning. We don't know if there is a large segment of Minnesotans that are really interested in this type of family planning. However, it is my opinion that in our contacts throughout the state there are groups of people that are interested in using this type of family planning.

I hope some pilot studies or partial funding for natural family planning can be worked out in the next few months.

Sincerely yours,

J. J. Pattee, M. D.

JJP/11
cc: Don Kramer
Senator Wayne Olhoft
Judi Kapuscinski

Orig.: Dr. Lawson
PHS
xc: CHS
5/16/78 MM:rm

RECEIVED
MAY 15 1978
Executive Officer
Minn. Dept. of Health



Metro Community Health Consortium

1729 Nicollet Avenue S. / Minneapolis, MN 55403 Phone 612/870-8003

May 8, 1978

Dr. Warren Lawson
Commissioner of Health
Minnesota Department of Health
717 Delaware Street SE
Minneapolis, MN 55440

Dear Dr. Lawson:

This is a letter of intent to apply for some of the additional family planning funds authorized by recent action of the State Legislature. We also wish to forward to you some of our concerns about the administration of the funds, which we hope you will take into consideration as you develop your administrative procedures.

The Metro Community Health Consortium is an association of ten community clinics in St. Paul, Minneapolis and the Hennepin County suburbs. Consortium clinics serve people for whom other sources of primary health care are not easily accessible, mainly low income people, and youth seeking confidential, non-judgemental care related to sexuality. They are governed by Boards of Directors made up of people from the community served. The clinics are partly supported by public funds from St. Paul, Ramsey County, Minneapolis (Federal Community Development and CETA funds), and Hennepin County. Hennepin County clinics are also receiving State Community Health Services funds for VD and family planning through purchase of service contracts with the County, and Minneapolis clinics contract through the Consortium with the City of Minneapolis for State Community Health Services funds for health education. The Consortium office administers joint grants to clinics and provides other management services such as data processing.

Consortium clinics are eager to take advantage of the opportunity to expand their family planning services because of the need we see for family planning information and services in our communities. We intend to apply for the funds as a Consortium, pooling our program planning efforts and reducing administrative costs to each clinic.

We hope for the support of the metro area city and county Community Health Services Advisory Committees and local boards of health. I would expect our program proposal to go through the CHS process. If we were awarded additional family planning funds, however, it would be administratively more efficient if we were reporting to one governmental agency rather than four.

Our concerns, of which you are probably already aware, are as follows:

Any definition or regulations related to the term "prepregnancy" (MS145.9215 subdivision 1) should not rule out the possibility of services for women who come for family planning, not suspecting they are pregnant, who are then found to be pregnant.

Any definition of the term "advises" (subdivision 4) should not be stretched to include simply providing information about abortion services, without making a recommendation, as one alternative in the event an unwanted pregnancy occurs in spite of contraception.

Any rules or regulations about family planning services should specify that those services must include providing the client with complete information about the full range of alternative methods of family planning, and must provide some minimum level of preventive health services, such as pap smears and breast examinations.

The new State family planning funds should expand family planning services, not merely supplant local government contributions to family planning or other health services.

Although we recognize that we can't expand our family planning education activities in schools with these funds, nothing in the rules or administration of these funds should interfere with our using other resources for family planning education in schools.

We hope to have the opportunity to comment formally on any rules developed for family planning services.

Thank you and your staff for your attention to our concerns.

Sincerely,

K C Spensley
Executive Director

KCS/mbc

Health

Steve Mihalchick
Hearing Examiner

January 24, 1979

Judi Kapuscinski, Supervisor
Family Planning Unit

x5295

Supplemental Justification Regarding 7 MCAR §§ 1.457
Relating to Family Planning Special Project Grants

Attached herein please find Supplemental Justification prepared by the Minnesota Department of Health in regard to the above referenced proposed rules.

The attached comments and any possible wording changes in these proposed rules:

1. do not affect a class of persons not represented at the hearing (e.g., potential grantees, public health agencies, persons interested in methods of family planning, etc.);

2. do not go to a new subject matter of significant substantive effect. The suggested changes by the Department related to the administrative process for selection of projects represents a clarification of words which appeared ambiguous to the persons in attendance at the public hearing on January 10, 1979;

3. do not make major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing;

4, do not result in a rule fundamentally different from that contained in the Notice of Public Hearing.

JK:pkb

Attachments

In the letter of Mr. Mark McGarraugh, dated January 18, 1979, it is stated that 7 MCAR § is unnecessary. It is the Department's position, based on legal counsel, that this Rule is required by MN Stat. § 145.925 (1978) Subd. 5.

In State's Exhibit Number 2, testimony of MCCL, presented by Ms. Nancy Koster on January 10, 1979, the Ms. Mary Ann Kukarski letter dated January 20, 1979, and the Mr. Joe Niehaus letter dated January 23, 1979, it has been recommended that specific language relative to abortion be incorporated into the Rule. It is the Department's recommendation that such language not be added. MN Stat. § 145.925 (1978) Subd. 1, states that family planning special project funds are to be used for pre-pregnancy family planning services. Regardless of one's definition of pregnancy, abortion procedures require the presence of the condition of pregnancy. Since this Rule applies only to the pre-pregnancy services authorized by MN Stat. § 145.925 (1978), the inclusion of abortion references is unnecessary. MN Stat. § 145.925 (1978) does include language specific to abortion regarding eligible agencies and parental notification. To repeat this language is repetitive and, hence unnecessary. Since the Department has and will continue to distribute a copy of MN Stat. § 145.925 (1978) with copies of this Rule, the public has had and will continue to have knowledge of the statutory restrictions relative to abortions.

In the letter of Mr. Mark McGarraugh dated January 18, 1979 it is stated that this Rule is internally inconsistent regarding components required to be provided. In support of this statement Mr. McGarraugh references several sections of the Rule. The Department does propose the requirement that referral and follow-up be addressed when an applicant proposes to provide services on an individual component basis because no applicant is required to provide all components. Even under the method component referenced by Mr. McGarraugh, the applicant is not required to provide counseling, outreach or public information. An applicant may choose to offer only public information or group outreach and would not be required to provide any other component. This is reasonable and necessary to assure that service participants, of an agency which does not provide all family planning service components, will have arrangements available to obtain other needed service components from other providers.

Word Changes

In the letter of Mr. Ingram of January 19, 1979, there are numerous references to suggested word changes such as "recipient" and "continuing care". The Department recognizes that in the human services there are often several words which connote the same kind of an idea and that as a result of the public review and input process prior to the public hearing the language of the rules generally satisfied the principles of common usage, and no further changes are recommended.

7 MCAR 1.457 B

In response to testimony offered on January 10, 1979, and Ms. Kukarski letter dated January 20, 1979, Mr. Joe Niehaus letter dated January 23, 1979, and Mr. Alan Ingram letter dated January 19, 1979, regarding the use and definition of the term "approved family planning methods", the Department acknowledges the concern related to the term "approved" and concurs that inclusion within the Rule of a finite list of approved family planning methods might improve the public understanding of what family planning methods can be paid for, in whole or in part with family planning special project funds (i.e., are "approved"). However, no such finite list, by a single "approving" source exists. To address this matter, the Department recommends a change in the first definition found in 7 MCAR § 1.457 B as follows:

> "Approved" Family Planning Methods - means agents and devices for the purpose of fertility regulation prescribed by a licensed physician, and other agents and devices for the purpose of fertility regulation including, ~~but not limited to~~, spermicidal agents, diaphragms, condoms, natural family planning methods, sterilizations, and the diagnosis and treatment of infertility by a licensed physician, which can be paid for in whole or in part by family planning special project grant funds.

It is the Department's position that this wording change is not a substantive change in the Rule but a clarification resulting from deletion of unnecessary yet ambiguous words "approved" and "but not limited to" and that the proposed amended definition will assure public understanding of the family planning methods for which family planning special project funds may be expended.

7 MCAR 1.457 C3

In the letter of Dr. Ellen Alkon, dated January 8, 1979 (State's Exhibit Number 1) and the letter of Mr. Mark McGarraugh, dated January 18, 1979, it is suggested that the requirements of 7 MCAR § 1.457 C3 are unreasonable and burdensome. The Department maintains that the six family planning components defined represent six separate services which can be provided by an agency with family planning special project funds. Only by requiring information for each component can the Minnesota Department of Health understand the applicant intent and to consistently monitor the family planning services provided with state funds.

An agency may provide one or more of these components and may or may not have the same goals, objectives, target population, etc. for each component. In the event that an agency is providing more than one component and the goals, objectives, etc. are the same for each component, nothing in the Rule prohibits the agency from indicating this in the application. The requirements of 7 MCAR § 1.457 C3 are not that an agency have different or separate target populations, goals, objectives, etc., but it is reasonable that the application provide the Minnesota Department of Health with information on these items for each component to assure that erroneous assumptions about applicant intent be made by the Department.

The seven separate items required in 7 MCAR §§ 1.457 C3 are individually justified in the materials presented by the Department on January 10.

The Minnesota Department of Health refers to justification for 7 MCAR § 1.457 C3, page 3 of the material submitted on January 10, 1979.

7 MCAR 1.457 C3g

In the letter of Dr. Ellen Alkon, dated January 8, 1979, (State's Exhibit Number 1) it is recommended that applicants simply assure that trained and/or experienced personnel are providing family planning services. The Department does not agree with this recommendation. The Department refers to justification for 7 MCAR § 1.457 C3g presented on page 5 of the material submitted on January 10, 1979.

In the letter of Alan Ingram, dated January 19, 1979 (note typographical error on original) recommends specific minimum requirements for training or experience for counseling. Due to the variety of paraprofessionals and professionals that may be utilized in provision of quality family planning services such judgments related to minimal competencies are best handled by the local provider responsible for the family planning project.

7 MCAR 1.457 C8

In the letter of Dr. Ellen Alkon, dated January 8, 1979 (State's Exhibit Number 1), it is stated that 7 MCAR § 1.457 C8 prevents an agency from restricting services to specific populations. The Department agrees that 7 MCAR § 1.457 C8 does not permit discrimination. The Department refers to the justification of 7 MCAR § 1.457 C8 found on page 6 of the materials presented on January 10, 1979.

In the letter of Ms. Mary Ann Kukarski, dated January 20, 1979, it is suggested that the Rule mandates grantees provide services to minors. The Department position is that local participation under MN Stat. § 145.925 (1978) is not mandated. It is a well established fact that a large portion of the population who can benefit from the services provided through this Statute are minors. Therefore, it is reasonable not to discriminate against this population.

7 MCAR 1.457 D

In the letter of Dr. Ellen Alkon, dated January 8, 1979 (State's Exhibit Number 1) it is suggested that the requirement of 7 MCAR § 1.457 D regarding information on services available from the applicant is not logical when applied to the components of method, referral, and possibly follow-up. The Department would agree if all applicants were required to provide all components. However, in order to allow for local determination of components needed, an applicant may request funding for one or more components. A service recipient, therefore, needs information on which components are available from the applicant. The Department refers to the justification on 7 MCAR § 1.457 D found on page 7 of the materials presented on January 10, 1979.

7 MCAR 1.457 D3

There was testimony in 7 MCAR § 1.457 D3 offered on January 10, 1979 which recommended that all agencies providing the method component be required to provide the counseling component. The Department does not agree with this

recommendation. The Department agrees that counseling is an important aspect of family planning services and that individuals should have an opportunity for counseling prior to receiving a family planning method. Persons providing counseling must be skilled in counseling and knowledgeable and comfortable with all family planning methods. All persons providing the method component may not have such qualifications. Therefore, the Department's position is that an applicant providing the method component document that service recipients has an opportunity for counseling prior to receiving a method. Since the method component is provided to individuals, an applicant not providing counseling is required to have referral and follow-up procedures for counseling services. The result is that applicants skilled in providing the method component are not restricted from providing this component and service recipients can receive quality counseling services from appropriate individuals.

In the letter of Mr. Alan Ingram, dated January 19, 1979, it states that Subd. 7 of MN Stat. § 145.925 requires that counseling be provided to persons requesting this service. We agree with that statement and in order to implement this subdivision the rules requires that grantee agencies have the capacity to either provide counseling directly or offer referrals for this service. We further agree with Mr. Ingram that counseling be voluntary and provided by persons trained in counseling techniques.

7 MCAR 1.457 D4e

There was testimony on 7 MCAR § 1.457 D4e offered at the January 10, 1979 Public Hearing recommending that the Rules require that an agency provide medical services to all service recipients served under the method component. The Department agrees that preventive medical services are an important aspect of health care. However, the Department's position is that health care is more than medical services, 7 MCAR § 1.457 D4e establishes a minimum level of quality health care for all method recipients in addition to a minimum level of medical services for the medical family planning methods. We feel that to assist individuals in avoiding risks of unplanned pregnancy through the use of available and accessible family planning services is one of the main objectives of MN Stat. § 145.925 (1978) and that these risks are as severe as the risks avoided through preventive medical services.

We feel that by requiring education on the advisability of preventive medical care within the method component but not requiring the provision of medical services when such services may be a barrier to available family planning services, we are reducing barriers to family planning services while maintaining quality health services. Since the method component is a service to individuals, the Rule requires all applicants providing the method component to have procedures for referral and follow-up for family planning services not provided by the applicant. Therefore, the Rule requires that an applicant provide or at least be able to assist a service recipient in receiving medical services but does not require that family planning special project funds be used for these services in all instances. An applicant has the option of providing medical services.

7 MCAR 1.457 E

In the letter of Mr. Alan Ingram, dated January 19, 1979, the letter of Ms. Nancy Kukarski, dated January 20, 1979, the letter of Dr. Ellen Alkon, dated January 8, 1979 (State's Exhibit Number 1) and in oral testimony offered on January 10, 1979, comments indicate that 7 MCAR § 1.457 E is unclear regarding the Department's process for reviewing applications. The Department acknowledges that the process for review of applications and the submission of additional/ revised information by an applicant prior to award by the Department is unclear. Therefore, the Department recommends that 7 MCAR § 1.457 E be changes to read:

E. Criteria for Award of Family Planning Special Project Grants

Applications which meet the requirements of law and these Rules shall be funded awarded in accordance with the notice of availability as specified in 7 MCAR § 1.452 A, procedures specified in 7 MCAR § 1.452 E, and the following criteria:

1. Applications proposing to provide all family planning service components in counties with no in-county subsidized family planning service as of December 31, 1978, will be given priority above all other applications.

2. Quality and Content: ~~In addition to 7 MCAR § 1.453 B2c & e,~~ applications will be evaluated on the basis of:
   a. 7 MCAR § 1.453 B2 c and e.
   ~~a~~ b. The extent the funds will be used to meet unmet needs in the geographic area as identified in the application;
   ~~b~~ c. The extent the application proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant;
   ~~c~~ d. The extent the application proposes to coordinate family planning services with organizations, agencies and individual providers in the geographic area to be served.

3. Agency

When equivalent and competing applications are submitted for a geographic area, award funding priorities will be in accordance with the following:
   a. First priority will be given to local Boards of Health;
   b. Second priority will be given to eligible non-profit corporations. Prior to submission to the Commissioner, the applicant shall submit the proposal to the local Board of Health for review and comment. Any comments of a local Board of Health shall be submitted to the Commissioner within 20 days of the date the proposal was mailed to the local Board.

This does not represent a substantive change in the Rule, but a clearer representation of the process used by the Department in determining if a family planning special project grant can be awarded to an applicant. The restatement of the applicability of 7 MCAR § 1.452 E in this section is necessary so that an applicant may more easily identify all applicable criteria of the awards process.

7 MCAR § 1.457 A

In the letter of Ms. Nancy Kukarski, dated January 22, 1979, the deletion of specific parts of 7 MCAR §§ 1.451-1.455 has been questioned. The Department's position regarding each deletion is as follows.

7 MCAR § 1.452 D4: This rule requires assurance of compliance with applicable state and federal laws, and approval of the Community Health Service Plan by county boards or city councils. The Department agrees with the former requirement and reflects this position in 7 MCAR § 1.457 C6.

Documentation of approval by city councils or county boards relates only to Community Health Service plans and is not applicable to application for these family planning special project funds.

7 MCAR § 1.453 B2f: The Department agrees that regional review is reasonable and necessary. This position is reflected by the inclusion of a reference to 7 MCAR § 1.453 A. Any comments from Regional Developmental Commissions (RDC's) or Health Systems Agency (HSA's) taken into account during the application review process, however, such comments do not necessarily constitute criteria for award of a family planning special project.

Since there is no requirement that the regional review be completed, not all applications may have such a review provided to the Department. Therefore, it would be an unequitable criteria.

7 MCAR § 1.454, B2, 3, 4 - The Department agrees with the comments that the requirements of this section are important and necessary. This position was reflected in previous drafts of the rule which were reviewed by the Task Force and the public. The Department now recognizes a clerical error in the printed rule which excludes 7 MCAR § 1.454 B2, 3, 4. We agree that it should be included and recommend that the 7 MCAR § 1.457 A be changed to reflect the intent of the Department as follows:

A. Purpose, Scope and Applicability

The purpose and scope of these Rules is to prescribe requirements applicable to Family Planning Special Project Grants, to establish minimum standards for family planning services supported in whole or in part by family planning special project grant funds, and to provide a criteria for the review of family planning special project grant applications. An applicant is not required to provide all family planning service components to be eligible for funding. The following parts of 7 MCAR §§ 1.451-1.455 and no others also apply to family planning special project grants: 1.451 A, B, C3, D; 1.452 A, B, C, D1&2, #; !.453 A, B2c&e; 1.454 A, ~~B1,~~ B1-5a, d, e, f, C; 1.455 B.

7 MCAR 1.457 F

In the letter of Dr. Ellen Alkon, dated January 8, 1979 (State Exhibit Number 1), the letter of Mr. Mark McGarraugh, dated January 10, 1979, and in oral testimony offered on January 10, 1979, it has been suggested that the funding priorities as stated in 7 MCAR s 1.457 F (so labelled on January 10, 1979) are confusing and contradict other sections of 7 MCAR § 1.457.

The intent of 7 MCAR § 1.457 is to inform the public as to the procedures to be used by the Department in the event the available funds for these Family Planning Special Project Funds is not sufficient to cover the anticipated budgets of eligible applications. The Department procedures are intended to assure at least some funding for each application determined eligible in accordance with 7 MCAR § 1.457 E.

The Department takes the position that counties with no in-county subsidized programs represent areas of greatest need for family planning funds. It is the Department judgment that to start up a family planning program in a county with no existing family planning services, there is a basic minimum amount (20,000) necessary to have a viable program (one staff person, materials, and expenses). Therefore, eligible applications from counties with no in-county family planning services must be given special consideration when prorating limited funds.

The Department takes the position that all other eligible applications can be considered equitable in terms of prorating of available funds. Therefore, the Department offers the following clarifying language for 7 MCAR § 1.457 so as to eliminate the ambiguity as noted in the public hearing.

F. Contingency Funding Proration

If after processing applications in accordance with Section E above, the total amount of funds budgeted in these applications exceeds the amount of family planning special project grant funds available, applications will be funded in accordance with the following:

1. Applications proposing to provide service in counties with no in-county family planning service as of December 31, 1978, will receive first priority. Up to the first $20,000 of the recommended budget in these applications will be awarded with no modification. Any portion in excess of $20,000 will be awarded in accordance with number 2 as follows:

2. All other applications and those unawarded portions of applications in number 1 above, will be prorated in an amount equal to their recommended budget multiplied by the ratio of total available funds minus funds awarded under number 1 above to total amount of the recommended budgets minus funds awarded under number 1 above.

These changes do not represent substantive changes in 7 MCAR § 1.457 F, instead, they represent a clarification of the intent of the Department regarding priorities for funding when requests for funds exceed funds available.

HLTH-79-020-SM

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE COMMISSIONER OF HEALTH

IN THE MATTER OF THE PROPOSED)
RULES RELATING TO FAMILY)
PLANNING SPECIAL PROJECT)
GRANTS (7 MCAR § 1.457).)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on January 10, 1979, before Steve M. Mihalchick, 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 Commissioner of Health on February 21, 1979; and

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

WHEREAS, the Commissioner of Health has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and 9 MCAR § 2.110; 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 Commissioner of Health has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Commissioner of Health has the responsibility of submitting the complete hearing record and the rules as adopted by the Commissioner to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 2nd day
of March, 1979.

DUANE R. HARVES
Chief Hearing Examiner

Re: In the Matter of Proposed Rules Relating to Family Planning Special Project Grants (7 MCAR § 1.457)

To All Interested Persons:

Pursuant to your request and in accordance with Minnesota Statutes, Section 15.0412, subdivision 4 and Rule HE 102:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Attorney General's Office on March 7, 1979, for review as to form and legality. Pursuant to Rule ATTY GEN 305, any person may question the legality of the above-captioned rules within ten (10) days after receipt of the rule by the Attorney General. Thereafter, the Office of the Attorney General shall conduct its review. If you desire to question the legality of the above-captioned rules, you should direct your comments to the Attorney General's Office, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before submission to the Attorney General you may contact: Judi Kapuscinski, 313 Minnesota Health Department Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, Telephone No.: (612) 296-5285.

George R. Petersen M D

GEORGE R. PETTERSEN, M.D.
Commissioner of Health