

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File #555

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ALAN HELD
Special Assistant
Attorney General

DATE: November 5, 1979

FROM : JOANNE E. HINDERAKER JEH
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Temporary Rule 163: Child Day Care Sliding Fee

The above-referenced temporary rules, as adopted by the Department of Welfare, have been approved by this office.

It is recommended that these rules and the order adopting rules be filed by your office with the Secretary of State's Office. Pursuant to Minn. Stat. § 15.0412 subd. 5, the Department must insure that notice of this office's approval of these rules shall be published in the State Register as soon as practicable and that the adopted rules shall be published in the manner provided in Minn. Stat. § 15.0412 subd. 4.

JEH/bw
Enclosure
cc: Duane Harves
Marshall Whitlock

Our File 55

Permanent Rule_____

Temporary Rule X

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 10/29/79 DUE DATE 11/5/79

Resubmitted and Received_____

a. Returned to Agency w/o Filing w/Secretary of State_____
b. Approved 11/5/79 Date Sent Back to Agency 11/5/79

- -

1. Rules as Adopted_____

2. Rules as Proposed_____

3. Certificate of Board's
Authorizing Resolution, where applicable_____

4. Order for Hearing_____

5. Notice of Hearing_____
Sufficiency_____

6. Secretary of State's List_____(one copy only)

7. Certificate of Acquisition of
Secretary of State's List_____

8. Secretary of State's Certification of Delivery
of Secretary of State's List to Agency_____

9. Affidavit of Mailing_____
At least 30 days prior to hearing_____

10. Publication in State Register_____
At least 30 days prior to hearing_____

11. Statement of Need and Evidence_____

12. Hearing Examiner's Report_____

13. Agency's Findings of Fact_____

14. Certificate of Board's Resolution
Adopting Rules, where applicable_____

15. Order Adopting_____

16. Report of Chief Hearing Examiner_____

17. Order Approving Incorporation by Reference,
where applicable_____

18. Certificate of Compliance with Rulemaking Procedures_____

19. Copy of Notice of Intent to Solicit Outside Opinion,
where applicable_____

20. Petition by Public, where applicable_____

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Joanne Hinderaker
Special Assistant
Attorney General

DATE: November 2, 1979

FROM : Alan A. Held
Special Assistant
Attorney General

PHONE: 6-8406

SUBJECT: Temporary Rule 163

As you requested, I am enclosing a corrected page 2 and page 6 for temporary Rule 163. These pages are to be substituted for the respective pages in the Rule in your possession thereby eliminating the typographical errors they contain. Additionally, I am enclosing three copies of the Rule in its corrected form.

AAH/rmm
Enclosure

RECEIVED
NOV 2 1979
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

PRINTED ON RECYCLED PAPER

Temporary Rule 163: Child Day Care Sliding Fee

A. Introduction

1. Pursuant to Minnesota Statutes, Section 245.83 through 245.87, this rule governs the administration of the experimental child day care sliding fee program for reducing, according to a sliding fee schedule, the costs of child care for eligible families whose income ranges from 60-70% of the state median income.

2. Definitions

a. Child Day Care Service: The less than 24-hour a day service which provides care for children as a substitute for or supplement to parental care for a planned period of time.

b. Eligible Child Day Care Provider: A family day care home, group family day care home or group day care center holding a current and valid license issued by the commissioner, or exempt from licensure by the commissioner, or an in-home attendant certified by the commissioner.

c. Commissioner: Minnesota Commissioner of Public Welfare.

d. County: The board of County Commissioners.

e. State Advisory Council: The Minnesota Child Care and Development Advisory Council, appointed by the Commissioner for the purpose of advising the Commissioner on child day care issues.

f. Administering Agency: The agency designated by the county to administer the child day care sliding fee program, which may be the county welfare department or any public or nonpublic agency.

g. Title XX: The title of the Social Security Act known as "Grants to States for Services", established by P.L. 93-647, as amended.

h. Comprehensive Annual Services Program Plan (CASP PLAN): The State Social Services plan, which is a compilation of all the local social services plans, and which meets the state plan requirements of Title XX of the Social Security Act.

i. Family: Parents and their dependent children under age 18 years including children temporarily absent from the household in settings such as schools, foster care, and residential treatment facilities.

j. Area: Either the Governor's Economic Development Region Eleven or the Governor's Economic Development Regions one through ten.

k. Program Year: The state fiscal year, July 1 through June 30.

l. Program Costs: The provider charge plus the administrative costs.

m. Net Program Costs: The provider charge plus the administrative costs minus the parent fee.

B. Eligibility for Grant

1. Applicant: Pursuant to Minnesota Statutues, Chapters 393 and 402, the applicant for a grant shall be a county or group of counties. The applicant may designate any public or nonpublic agency to administer the program.

2. Title XX Child Day Care Services: To qualify for the sliding fee program the county shall offer fully subsidized child day care services to eligible persons with incomes below 60 percent of the state median income as set forth in the CASP PLAN.

3. Local Share Match: The county shall provide a local share match equal to five percent of the program cost during the first grant year and 15 percent of such cost during the second grant year. For purposes of determining the local match, administrative costs shall be considered to be the provider charge times seven percent. The local match shall not include the amount of minimum fee payments made by families but may include in-kind materials and services, furnished by the county, required for the administration of the program.

4. Because of the experimental nature of the program no county will be allowed to enter for the second year only.

C. Application for Grant

1. All counties shall select one of the following options regarding the experimental child day care sliding fee program:

a. Decide not to participate and notify the Commissioner of its reasons for the decision.

b. Participate using only state sliding fee funds and the required local match, serving families with an income of 60 to 70% of the state median income.

c. Participate using state sliding fee funds, the required local match, and Title XX funds, serving families with an income of 60 to 70% of the state median income.

d. Participate using state sliding fee funds and the required local match to serve families with an income of 60 to 70% of the state median income and use Title XX and/or other funds to serve families with an income of 70 to 115% of the state median income.

2. The application procedures for grants are as follows:

a. The county shall make application on forms provided by the Commissioner.

b. A county may propose an alternate fee schedule if it meets the following criteria:

(1) Use of the state sliding fee schedule would impose a hardship on families already participating in a sliding fee program (e.g., raising their fees substantially);

(2) The county can demonstrate how the use of their proposed fee schedule would reduce the incidence of lower income families remaining or becoming welfare recipients, increase the incentive for economic independence and provide other benefits;

(3) The county program serves a large enough population to demonstrate the impact of the program; and

(4) The fee charged does not exceed the fee allowed in the state fee schedule. Participating counties may only use one fee schedule for all eligible fee paying income groups receiving child day care services.

c. The county shall submit two copies of the application to the Commissioner by the deadlines established by the Commissioner.

d. The Commissioner shall submit a copy of each application to the state advisory council for their review and comment.

e. The Commissioner shall inform the county of the approval or denial of the application within 30 days of the submission deadline.

D. Award of Grant

1. The Commissioner shall award grants to counties which meet the eligibility requirements and for which applications have been approved, subject to the limits described below:

a. Thirty-five percent of the appropriation shall be awarded the first program year and sixty-five percent of the appropriation shall be awarded the second program year.

b. Area Limits: Fifty percent of the funds as determined in a. above shall be distributed to each area.

c. County Limits Within an Area. The amount, based on b. above, to be granted a county within an area, shall be equal to the sum of the following:

(1) Fifty percent of the area distribution times a ratio consisting of the number of working parent families with a child under six years of age in the county against the total number or working-parent families with a child under six years of age in all counties in the area; and

(2) Fifty percent of the area distribution times a ratio consisting of the number of children receiving AFDC grants in the county against the total number of children receiving AFDC grants in all counties in the area.

d. Not withstanding other provisions of this rule, grant awards shall not exceed ninety-five percent of the net program costs during the county's first grant year nor eighty-five percent of the net program costs during the county's second grant year.

2. The Commissioner shall reallocate unused first year funds after December 31, 1979, and shall reallocate unused second year funds after December 31, 1980, on the basis of need without regard to the limits described in D. 1. above.

E. Family Application

1. The administering agency shall inform parents on an on-going basis, through the news media and child day care providers, of the availability of child day care sliding fee assistance as well as the procedures for applying for such assistance.

2. The application procedures for assistance shall be:

a. Application for assistance shall be on form prescribed by the Commissioner.

b. The administering agency shall make information about the program and application requirements available to all persons requesting this information.

c. Assistance in making application shall be available from the administering agency upon request.

d. The county shall use its current Title XX practice in verifying sources and amounts of income and reasons for needing child day care services.

e. The administering agency shall inform each applicant of the approval or denial of his/her application within 30 days of receipt of a completed application in writing.

f. Eligibility for assistance will be from the date of application.

3. The administering agency shall redetermine eligibility at least every six months.

4. The administering agency shall inform each applicant of the availability of all types of child day care services, the limits on available assistance, the reporting procedures and periods, and other policies or actions which have a direct affect on the applicant.

F. Family Eligibility for Assistance

1. Income. The family's income shall be above the maximum allowable for Title XX fully subsidized child care services but less than 70 percent of the

state median income as set forth in the current CASP PLAN. Income shall be defined, as in the Title XX program, to mean all monthly income before deductions received by all family members age 14 or over.

2. Reasons for needing care. Families eligible for assistance are those needing child day care services for the following reasons only: employment, school attendance, or other circumstances related to employment and school attendance.

3. Age. Only children 14 years of age or younger may be eligible for assistance.

4. Residence. Application shall be made in the family's county of residence.

G. Family Fee Payment Schedule

1. The Commissioner shall establish a monthly family fee schedule based upon income and family size.

2. In setting the fee schedule, the following computations shall be made for family sizes 2 to 10:

a. The federal, state and Social Security taxes are computed at the 60%, 70%, 80%, 90%, 100%, 110% and 115% of the state median income levels (Federal Income Tax Table, Family size 2-Table D - Unmarried Head of Household Family size 3-10, Table B-Married filing Joint Return and the Minnesota Income Tax Table - tax computed on gross income). The computation of the state and federal taxes includes a child care credit. (The child care credit is determined by using 20% of the estimated annual cost of child care as directed in the Income Tax Tables. Estimated annual cost of child care by family size: 2-$840, 3-$936, 4-1,080, 5-$1,200, 6-1,380, 7-$1,500, 8-$1,860, 10-$1,980).

b. The federal, state and Social Security taxes are added together at each income level.

c. The difference in the tax total between the 60% income level and the tax total of each subsequent income level is determined.

d. The difference in the gross annual income at the 60% income level and the gross annual income for each subsequent income level is determined.

e. The difference in the taxes at each income level is subtracted from the difference in income at each level.

f. The net income at the 70% level is multiplied by 75% to determine the annual child care fee. The net income at the subsequent income levels is multiplied by 55% to determine the annual child care fee.

g. At each income level, the annual child care fee is divided by 12 to determine the monthly child care fee. (For a family of 6, at the 70% income level the fee calculated is $125. Since this is a higher fee than at the 70% income level for a family of 7-$117- , the fee is reduced to $110 to produce for a continual increase in the fee schedule as the family size increases).

h. The fee for income increments between each income level computed is determined by evenly dividing the difference in the fee between the income levels by the number of income increments between the levels. For family size 2-10, there are 10 income increments between 61-71% of the state median income with each increment representing

a 1% increase in income and between 71-80%, 81-90%, 91-100% and 101-110%, ther are 4 income increments with each representing a 2.5% increase in income. Between 111-115% there are 2 income increments with each representing a 2.5% increase in income. More increments are allowed between the 61-70% income level as the primary users of the sliding fee program will be dealing with this income range.

3. The total fee payment for a family shall not exceed 75 percent of the income determined available in G. 2. e. above.

4. Only a single fee shall be charged regardless of the number of services a family receives. The fee charged shall be the highest fee.

5. When the county makes payments to providers for child day care costs, eligible families shall be responsible for reimbursing the county in monthly payments the amount of which shall be determined in accordance with the fee schedule described in Section G.

6. The commissioner shall publish a fee schedule, coordinated with the state CASP Plan.

H. Provision of Service

1. The Commissioner shall determine the median service charge for each type of child day care service for each of the Governor's economic regions.

2. The county shall not make payment for that part of any child day care service charge in excess of 125% of the median charge for that service.

3. The county may limit the number of families to whom assistance is provided because of insufficient grant funds. However, counties using Title XX funds must amend their CASP Plan.

I. Payment of Assistance

1. The administering agency shall make payment in either of the following ways:

a. An eligible family may be reimbursed for expenses incurred up to the limits specified in H. above.

b. The child day care provider may be reimbursed for charges up to the limits described in H. above.

2. The administering agency shall inform the family and/or child day care provider, who will receive payment as well as how and when it will be received.

3. The administering agency shall make payments at least monthly.

4. The administering agency shall inform the family of the method in which its monthly family fee payment was computed.

J. Evaluation

1. The Commissioner shall collect data and evaluate the program for the purpose of demonstrating the effectiveness of the program in preventing and reducing the dependence of participants on public assistance and in providing other benefits.

2. The administering agency shall collect data and prepare periodic reports as required by the Commissioner.

APPROVED AS TO FORM AND LEGALITY

NOV 0 5 1979 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY Joanne E. Hinderaker

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR E. NOOT

COMMISSIONER OF PUBLIC WELFARE

In the Matter of the Proposed Adoption of Temporary Rule 163 of the Department of Public Welfare Regarding Child Day Care Sliding Fee.

ORDER ADOPTING TEMPORARY RULE 163

Minn. Stat. § 245.84, subd. 2 (Supp. 1979) requires the Commissioner of Public Welfare to promulgate temporary rules governing an experimental program to reduce the costs of child care for eligible families according to a sliding fee schedule. The above-entitled rule governs such a program. The proposed temporary rule appeared in the State Register on October 1, 1979.

Pursuant to Minn. Stat. § 15.0412, subd. 5 (1978) the Department accepted comments from the public for 20 days following publication of the proposed temporary rule. Written comments were received from Gary Winget, Executive Director, Ramsey County Child Care Council. The Department reviewed all of the comments and recommendations.

Section G.3. of the rule, which establishes a limit to the total fee payment required of a family, was modified to refer to the income available in section G.2.e. rather than G.2.a. since the former section rather than the latter determines the income available after all deductions. Therefore, section G.3. shall read:

> The total fee payment for a family shall not exceed 75 percent of the income determined available in G.2.a-e.

In response to apparent confusion over the various ways in which a county can structure its scheme governing the payment of providers and a family's payment of its share of child care costs, section G.5. was modified in order to clarify its original

intent and the way in which it relates to section I.1.a. Apparently, some counties could have misconstrued the original section G.5. to require parents to pay fees to the county under all payment schemes and prohibit counties from requiring parents to make payments directly to the provider. To avoid any possible confusion, section G.5. shall read as follows:

> When the county makes payments to providers for child day care costs, eligible families shall be responsible for reimbursing the county in monthly payments the amount of which shall be determined in accordance with the fee schedule described in section G.

Aside from these two changes and several spelling corrections, the temporary rule as adopted is otherwise identical to the rule as proposed.

NOW THEREFORE IT IS ORDERED that this temporary rule, identified as Temporary Rule 163: Child Day Care Sliding Fee is adopted this 26th day of October, 1979.

Dated: October 26, 1979

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Arthur Noot by Wesley Pastel

ARTHUR E. NOOT
Commissioner

(1) Fifty percent of the area distribution times a ratio consisting of the number of working parent families with a child under six years of age in the county against the total number or working-parent families with a child under six years of age in all counties in the area; and

(2) Fifty percent of the area distribution times a ratio consisting of the number of children receiving AFDC grants in the county against the total number of children receiving AFDC grants in all counties in the area.

d. Not withstanding other provisions of this rule, grant awards shall not exceed ninety-five percent of the net program costs during the county's first grant year nor eighty-five percent of the net program costs during the county's second grant year.

2. The Commissioner shall reallocate unused first year funds after December 31, 1979, and shall reallocate unused second year funds after December 31, 1980, on the basis of need without regard to the limits described in D. 1. above.

E. Family Application

1. The administering agency shall inform parents on an on-going basis, through the news media and child day care providers, of the availabiltiy of child day care sliding fee assistance as well as the procedures for applying for such assistance.

2. The application procedures for assistance shall be:

f. Administering Agency: The agency designated by the county to administer the child day care sliding fee program, which may be the county welfare department or any public or nonpublic agency.

g. Title XX: The title of the Social Security Act known as "Grants to States for Services", established by P.L. 93-647, as amended.

h. Comprehensive Annual Services Program Plan (CASP PLAN): The State Social Services plan, which is a compliance of all the local social services plans, and which meets the state plan requirements of Title XX of the Social Security Act.

i. Family: Parents and their dependent children under age 18 years including children temporarily absent from the household in settings such as schools, foster care, and residential treatment facilities.

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