

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File #569

Permanent Rule_____

Temporary Rule__X__

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 12-20-79 DUE DATE 12-27-79

Resubmitted and Received 12-27

a. Returned to Agency w/o Filing w/Secretary of State 12-27
b. Approved 12-27 Date Sent Back to Agency_____

- -

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)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ARTHUR NOOT
Commissioner
Department of Public Welfare

DATE: December 27, 1979

FROM : LEE E. SHEEHY
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules Governing Grants for Community Services For Chronically Mentally Ill Persons

The above-captioned temporary rules have not been approved by this office for the below-enumerated reasons. After agency consideration and appropriate action, if any, the rules may be resubmitted to this office.

The rules have not been approved for the following reasons:

1. Section E(5) has a drafting error in that the section signs in the citation of Minnesota Statutes are missing. Another drafting error exists in H(2) relating to its citation of a section which is non-existent in the rule.

2. Section H(3) is confusing in that the use of the word "may" appears to give the agency unbridled discretion to consider criteria beyond those listed. In addition, the reference to the "above enumerated criteria" is confusing as to whether such a reference included only the criteria in section H(3) or also includes the criteria in section F. This confusion and the related problem must be remedied.

If you have any questions, do not hesitate to contact me.

LES/bw
Encl.
cc: Susan Robertson
Duane Harves
Ellen Dubuque

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

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Lee E. Sheehy
Special Assistant
Attorney General

DATE: December 27, 1979

FROM : Ellen C. Dubuque
Special Assistant
Attorney General

PHONE: 6-2418

SUBJECT: DPW Temporary Rule 14

Attached is Adopted Temporary Rule 14 which includes amendments made to address the problems you raised in your memorandum of December 27, 1979, disapproving the Rule.

The amendments made include:

1. Page 2; Section E.5: section symbols were inserted before "375.02 - 375.55" in the third line.

2. Page 5; Section H.2. To correct a technical drafting error, the following words are deleted from the first sentence: "Allowable expenses ~~which shall be budgeted in the form specified in Section G.5 of this rule~~, include:". The drafting error was created during an early revision of the rule. The current rule contains no Section G.5. Instead, G.2. refers to budget forms.

3. Page 5; Section H.3. The last sentence has been deleted and the word "may" in line 4 has been replaced with "shall." These amendments have been made to eliminate redundancy and confusion in the original language.

The original meaning, which is clarified by the amendments, is that applicants will get approval from the Commissioner for non-direct expenditures if they meet the three criteria contained in the section.

PRINTED ON RECYCLED PAPER

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ARTHUR NOOT
Commissioner
Department of Public Welfare

DATE: December 27, 1979

FROM : LEE E. SHEEHY
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules Governing Grants for Community Services For Chronically Mentally Ill Persons

The above-captioned temporary rules as resubmitted to this office have been approved.

While the statute does not require it, this office recommends that an Order Adopting and the Rules as Adopted be filed with the Secreta of State. Of course, it is the agency's responsibility to fulfill the publication and other requirements of Minn. Stat. § 15.0412, subd. 5.

If you have any questions, do not hesitate to contact me.

LES/bw
Encl.
cc: Susan Robertson
Duane Harves
Ellen Dubuque

Department of Public Welfare
Mental Illness Program Division

Revised Proposal
10-31-79

DPW TEMPORARY RULE 14 (12 MCAR 2.014)
GRANTS FOR COMMUNITY SUPPORT SERVICES FOR
CHRONICALLY MENTALLY ILL PERSONS

A. Statutory Citation: The authority for this rule is Chapter 324, § 12, Laws of Minnesota, 1979, codified as Minn. Stat. § 256E. 12.

B. Purpose: The purposes of this temporary rule are to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients. In order to carry out these purposes, this rule will set minimum standards for the contents of grant applications, allocation and award of grants, and maintenance of financial statements to carry out the intent of the authorizing legislation.

C. Introduction.

1. The provisions of this rule shall be severable. If any clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and its applicability shall not be affected.

2. This rule shall not be construed as requiring expenditures of monies not available.

3. Any provision of this rule inconsistent with any state or federal law is superseded by that law.

D. Applicability.

1. This rule applies to those county boards of commissioners which

apply, either individually or jointly with neighboring counties, to the Commissioner of Public Welfare for grants to carry out the purposes of this rule.

2. The county board of commissioners may request funds under this rule for programs and services for chronically mentally ill people to be carried out by the county or by any public or nonprofit organization, or by any combination of these organizations with which the county contracts.

E. Definitions.

1. Administrative Overhead: Those costs which cannot be directly charged to the project funded under this rule, or which are shared with activities other than the funded project.

2. Case Management: A direct service provided by qualified mental health workers to chronically mentally ill people. Essential components of case management are 1) monitoring and supervising individual clients, 2) assuring coordination and availability of treatment/rehabilitation/support services and 3) providing access for the client to problem-solving resources. These activities which are essentially coordinating and problem-solving functions are provided and periodically reviewed over the period of time that the case is open. It shall include, but not be limited to: (a) assessment of the client's strengths, problems, and needs; (b) development of and carrying out the individual program plan; (c) coordinating the various service components in the continuum of care to carry out the individual program plan; (d) providing link-

age between the service system and the client; (e) assuring that clients are involved with appropriate resources and services in accordance with the individual program plan; (f) monitoring and periodically revising of the individual program plan; (g) influencing service providers to respond to client needs; and (h) stimulating the development of needed services and resources and protecting the rights and dignity of clients being served.

3. Chronic Mental Illness: A condition characterized by severe and persistent symptoms of mental or emotional disability, and diminished levels of functioning relative to primary aspects of daily living, such as personal relations, living arrangements, work skills, recreation and mobility.

4. Commissioner: Commissioner of Public Welfare or a designated representative.

5. County Board of Commissioners: That body of duly elected officials responsible for the governance of its county under the authority of Minnesota Statutes 375.02-375.55.

6. Crisis Homes: A facility providing room, board, and support and referral services for up to four persons, for up to five days, while individuals are assisted to resolve an acute crisis or emergency situation which requires temporary housing.

7. Crisis Management: Short-term services provided, to the extent possible, in the client's usual surroundings including the client's own home or substitute home, aimed at the reduction of acute

emotional disabilities and their physical and social manifestations and the restoration of emotional equilibrium. Such services must be available twenty-four hours a day, seven days a week.

8. Day Treatment Program: A program of administratively organized and programmatically structured services operating less than 24 hours a day for chronically mentally ill people which devotes a significant share of the scheduled program day to the teaching of independent living skills, psychosocial rehabilitation, psychotherapy, and development of socialization skills so that the participants may function more independently and more effectively in their own communities.

9. Department: State Department of Public Welfare.

10. Designated Agency: That agency selected by the county board of commissioners pursuant to Chapter 324, Laws of Minnesota for 1979.

11. Drop-In Center: A facility offering semistructured services and activities for chronically mentally ill people, including support and social skill development.

12. Independent Living Skills: Those skills necessary for an individual to function successfully independently, such as money management; cooking; grooming; obtaining and holding employment; and personal health maintenance, including medication management.

13. Individual Program Plan: A written plan of treatment and rehabilitation containing measurable goals and objectives designed

to meet the particular needs of an individual client which has been jointly developed and regularly reviewed by appropriate providers, the assigned case manager, and the client.

14. Program: A formal, continuum of care that is a coordinated combination of services, with clear goals and measurable objectives. Programs are directed toward meeting the needs of specific disability groups and individuals within those groups while allowing for the ready movement of individuals between appropriate services.

15. Project: Specific formally organized services for which application for funds are being made under this rule.

16. Residential Facility: A non-acute hospital facility offering administratively organized and programmatically structured 24 hours a day room, board, and relevant services to foster the independence of chronically mentally ill people.

17. Service: A specific identifiable, goal-oriented activity which, for purposes of this rule, is designed to reduce major disabilities related to chronic mental illness.

F. Allocation.

1. Priority of Allocation:

a. Funds will be awarded for new or expanded services providing additional direct services to chronically mentally ill people and which emphasize crisis management, independent living

skill training and case management components in their services. Day treatment, crisis homes, and drop-in centers may be funded under this rule.

b. Programs and services provided at the site of a long-term residential facility may be funded but will be given a lower priority than those provided away from the residential facility, unless the applicant county documents that the residents of the facility are unable to leave the facility to make use of the services.

c. Applications proposing services not mentioned in this section will be considered if there is a documented local need for them.

2. Regional Priorities: To the extent that the applications submitted are equally meritorious, the Department will allocate funds in such a way that amounts are awarded, pro rata, according to population size, approximately one-half to applying counties from Region XI and approximately one-half to applying counties from the balance of the state. If there are not sufficient acceptable applications from one group of counties as defined above, the remaining funds will be awarded to qualifying applications from the other group of counties.

G. Content of applications.

1. Applications must contain at least the following information, following the Problem, Objectives, Method, Evaluation (POME) format.

a. Problem: a description of the problem to be addressed by the proposed service; the population at risk; and the evidence of the need for this service.

b. Objectives: a statement of the measurable time-limited outcomes of the proposed service;

c. Methods: the modalities of treatment and rehabilitation to be used; a description of how individualized program plans will be used in carrying out the service; a description of how case management will be used in carrying out the service; a description of how the proposed service will fit into the local continuum of care and service; and a description of the proposed site(s) and providers to be used. If the providers and sites have not been finally determined at the time of application, the Department will consider the application if it contains indications of potential providers and sites.

d. Evaluation: a description of how the county board of commissioners will evaluate projects funded under this rule.

2. A budget shall be included with the application, completed on the designated budget forms. Dollar amounts for the various items included in the budget document shall reflect and be based upon the prevailing cost of like components in the local community. It shall indicate the total cost of the project, showing the respective state and local shares. The specification of the local share shall indicate the amount of actual local funds committed to the project source.

3. A resolution of support signed by the applicant county board(s) shall be attached to the application indicating the amount of county funds committed to the proposed project as the required local match. If the service is proposed by and for more than one county, the chairman of participating county boards of commissioners shall sign the application.

4. Five complete copies of the application and budget shall be submitted to the Department.

H. Use of Project Funds

1. The purpose of this experimental, time-limited appropriation is to provide new or expanded programs and services to chronically mentally ill adults in such a way as to maximize the use of the funds in a relatively short period of time to test their effectiveness. The use of the funds available under this appropriation for capital expenditures or non-service related costs would not serve this purpose.

2. Allowable expenses, which shall be budgeted in the form specified in Section G.5. of this Rule, include:

   a. salaries and related expenses of personnel providing services directly to clients in the project;

   b. local travel costs of personnel working in the project;

   c. consummable supplies used by the project;

d. administrative overhead, as defined and limited by this rule.

3. If an applicant can show that an expenditure other than for a direct service is 1) relatively minor, 2) essential for the project to operate, and 3) cannot be paid for from local funds, such an expenditure may be paid for from funds available under this rule, with the approval of the Commissioner. The Commissioner shall use the above enumerated criteria in approving such expenditures.

4. State funds available under this rule shall not be used to pay room and board costs, except for such costs in Crisis Homes, and then only if it can be demonstrated not to be cost-effective to charge the individual or third parties for these costs.

5. Funds available under this rule shall not be used to replace existing fiscal support of programs and services. In the event that existing fiscal support of a mental illness program or service is eliminated or reduced by circumstances beyond the control of the county board of commissioners, application may be made for funds available under this rule to replace the existing funds which have been eliminated or reduced, provided that specific documentation of the elimination or reduction in fiscal support accompanies the application.

6. State funds available under this rule shall not be used for construction or renovation or rent of buildings, nor shall they be used for the purchase or lease of equipment or vehicles. Local matching funds, once identified and committed, may be used for these purposes and will be counted as administrative overhead.

7. State funds available under this rule shall not be used to pay for subscriptions, membership dues, or for out-of-state conferences or out-of-state travel.

8. Legal and accounting fees and planning activities shall not be funded under this rule, although individual program-planning costs are allowed.

I. Administrative overhead.

1. Up to a maximum of ten percent of the total project budget may be used for administrative overhead in a currently operating organization. In situations where previously nonexistent programs and services are being developed, the maximum allowed for administrative overhead shall be twenty-five percent of the total project budget for the duration of the first project grant.

2. The local match, or ten percent of the total budget of the project, shall consist of funds committed to the project. Fee income, if any, may be counted as part of the local matching share.

J. Maintenance of Financial Statements: Grant recipients shall maintain their financial records, using generally accepted accounting procedures, in such a way that expenditures can be easily compared with the approved budgets; that the state and local contributions can be readily and separately identified; and that documentation is available for all expenditures.

K. Reporting requirements: The Commissioner is required by law to collect

data and periodic reports as is deemed necessary to demonstrate the effectiveness of the services. Therefore, the Commissioner shall require that those county boards of commissioners receiving funds under this rule report to the Department the number and kinds of persons served, the cost of providing the services, results achieved, and other relevant data deemed necessary. This information, along with an evaluation from the County Board of Commissioners, will be used as the basis for an evaluation by the Commissioner of the specific projects in his report to the Legislature.

L. Duration of awards.

1. Funds awarded in the 1979-81 biennium shall be for the total remaining months in the biennium following the date of the award. An award made in Fiscal Year 1980 shall also include funding for Fiscal Year 1981 without reapplication.

2. Awards not encumbered by applicant county(s) for expenditure within 60 calendar days of the awarding of the funds shall revert to the Department for reallocation. In those specific instances where actual providers and sites were not finally designated at the time of submission of the application, identification of these providers and sites must be submitted for final approval within this 60 calendar day period, or funds will revert to the Department for reallocation.

M. Other applicable laws and rules.

1. To the extent that a project funded under this rule is also subject to other Minnesota laws and rules, it must also meet the standards of those laws and rules.

2. If a determination is made that all applicable laws, rules and regulations cannot be met immediately, but that the applicant county has a definite, reasonable timetable to meet all necessary requirements the application shall be considered for funding.

IR/hex

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR E. NOOT
COMMISSIONER OF PUBLIC
WELFARE

In the Matter of the
Proposed Adoption of
Temporary Rule
Governing Grants for
Community Support
Services for Chronically
Mentally Ill Persons

ORDER ADOPTING
TEMPORARY
RULE 14

The above-entitled temporary rule was promulgated pursuant to Minn. Stat. § 256E.12 (1979 Supp). The proposed temporary rule was published in the State Register on November 9, 1979, 4 S.R. 802.

Pursuant to Minn. Stat. § 15.0412, subd. 5 (1978) the Department accepted comments from the public for twenty days following publication of the proposed temporary rule. Written comments were received directly from Arthur H. Kohlhase, Director, Marshall County Welfare Department, and indirectly (by carbon copy) from: Barry Evans, Community Services Center, Inc.; Wilbur J. Aiken, Western Human Development Center, Inc.; and Mary Huggins, Hennepin County Community Services/Mental Health Division. The Department reviewed all comments and recommendations.

The following change was made in the rule to correct a typographical error and to conform with the underlying authorizing statute:

Section D.2., third line, shall read:

"to be carried out by the county or
by any public or ~~non-profit~~ <u>private</u>"

Two other changes are made in the proposed temporary rule, modifying it as originally published, in response to public comment. These changes are made on the attached copy of the

adopted Temporary Rule. The rule as adopted is otherwise identical to the rule as proposed.

NOW THEREFORE IT IS ORDERED that this temporary rule, identified as Temporary Rule 14 Governing Grants for Community Support Services for Chronically Mentally Ill Persons, is adopted this 19th day of December, 1979.

Dated: December 19, 1979

State of Minnesota
Department of Public Welfare

ARTHUR E. NOOT
Commissioner

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

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Joanne Hinderaker
Special Assistant
Attorney General

DATE: December 19, 1979

FROM : Ellen C. Dubuque
Special Assistant
Attorney General

PHONE: 6-2418

SUBJECT: DPW Temporary Rule 14

Enclosed for your review and approval for form and legality is Adopted Temporary Rule 14 Governing Grants for Community Support Services for Chronically Mentally Ill Persons. The Adopted Rule contains modifications of the original published rule based on public comment made during the prescribed 20 day period.

Also enclosed are the Commissioner's Order adopting the Rule, the Rule as proposed, and original and one copy of all public comments received.

ECD/rmm
Enclosures

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