

Minnesota Attorney General: Administrative Rules Proceedings

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Our File #646

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

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ARTHUR E. NOOT, Commissioner
Department of Public Welfare
4th Floor, Centennial Office Building

DATE Nov. 17, 1980

ATTN: Alan A. Held, S.A.A.G.

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to 12 MCAR 2.160 (DPW Rule 160) Governing The Administration of Public Social Services.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JSA/bw
Encl.
cc: Duane Harves
Susan Robertson

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

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

File

TO : FILE #646

DATE: November 13, 1980

FROM : JERRY ANDERSON, S.A.A.G.

PHONE:

SUBJECT: In the Matter of the Department of Public Welfare's Proposed Adoption of the Amendments to 12 MCAR § 2.160 Governing the Administration of Public Social Services.

On review of the above-entitled rule, the possibility of a defective notice being mailed to some persons was disclosed. Apparently, the second of three pages of the Notice of Hearing, which was printed on the back of Page 1, may not have been copied on some Notices and therefore may have been deleted from some copies of the Notice of Hearing. The second page contained the following information:

1. A summary of the amendments to the rule.

2. A statement of the agency's statutory authority to adopt the rule.

3. A statement that the rule will entail no cost to local public bodies.

4. A statement that a free copy of the rule may be obtained from the agency by contacting the stated person.

It is my opinion that the Notice was not defective even if the above-listed items were deleted from some of the Notices as mailed for the following reasons:

1. The Rule as Proposed was included with the Notice, satisfying the requirement that either the rule or a statement of its nature and effect be included with the Notice.

2. Neither the APA as it existed at the time this Notice was sent nor the Attorney General's rules required a Notice to include statutory authority, negative statements regarding the expenditure of money by local public bodies, or the means of obtaining a free copy. To the extent that persons who did not receive a copy of the rule desired one, the Notice in the State Register did include the name and address of the person to contact to obtain a copy of the rule; persons who received a "defective" Notice received a copy of the rule.

HG copy

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to 12 MCAR 2.160 (DPW Rule 160) Governing The Administration of Public Social Services

ARTHUR E. NOOT

COMMISSIONER OF PUBLIC WELFARE

COMMISSIONER'S ORDER ADOPTING THE RULE

A hearing on the proposed adoption of amendments to a Department of Public Welfare rule governing the administration of public social services (12 M.C.A.R. § 2.160) occurred before Hearing Examiner Richard C. Luis on June 17, 1980, at 9 a.m. in Conference Room D, Veterans Service Building, St. Paul, Minnesota. The Department of Public Welfare (DPW) served proper notice of the hearing upon all persons, associations, and other interested groups registered for that purpose with the Secretary of State.

The following persons appeared or testified for DPW at the hearing: J. Philip Peterson, Herb Cashdollar, and Alan Held. All interested groups and persons had an opportunity to testify at the hearing. Pursuant to the order of the Hearing Examiner, the record was held open until June 27, 1980, for the submission of written comments and statements.

Based upon all of the records and the proceedings, the Hearing Examiner made Findings of Fact, Conclusions, and a Recommendation which are contained in the Report of the Hearing Examiner dated July 28, 1980, which is attached hereto and marked "Exhibit A." As required by Minn. Stat. § 15.0412, subd. 4 (1978), the Report was available to all affected persons for at least five days.

Having given due consideration to the Hearing Examiner's Findings of Fact and the comments of witnesses noted therein, and having considered all of the evidence presented, the relevant records, files, and proceedings, the applicable statutory authority, standards and criteria, and after confirming the reasonableness of and the need for these Rules,

IT IS ORDERED that the Findings of Fact and Conclusions of the Hearing Examiner relating to the reasonableness and necessity of the rule are hereby adopted and incorporated herein.

IT IS FURTHER ORDERED that the recommendations of the Hearing Examiner in paragraphs 14, 18, 23, 24, and 35 of his Report for reasonable and necessary changes to the proposed rule are adopted. In accordance with

paragraph 24 of the Report of the Hearing Examiner, paragraph E. 7.b. of the Rule is amended to read as follows: p. 11

b. The local social services agency shall give the social services recipient timely, advance notice of any proposed agency action which may adversely affect the recipient. This notice shall be in writing and shall inform the recipient of the right to appeal the action, the right to be represented by an attorney or other interested party at the hearing, and the conditions under which social services may be continued. Furthermore, the letter shall cite the specific Rule upon which the reduction or termination of services is based. The local social services agency shall mail the notice to the recipient at least ten days before the action becomes effective. However, when the local social services agency learns that social services should be discontinued, reduced or terminated because of probable fraud of the recipient, and, where possible, such facts have been verified through collateral sources, notice of agency action shall be considered timely if mailed at least five days before the action becomes effective.

IT IS FURTHER ORDERED that this rule, identified as Rule 160 of the Rules of the Minnesota Department of Public Welfare, is adopted this day and shall read in its entirety as set forth in the attached Exhibit B.

Dated: October 3, 1980.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

ARTHUR E. NOOT
COMMISSIONER

EXHIBIT "A"

DPW-80-035-RL

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE
SOCIAL SERVICES DIVISION

In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to 12 MCAR 2.160 (DPW Rule 160) Governing the Administration of Public Social Services.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Richard C. Luis, Hearing Examiner assigned by the Chief Hearing Examiner, at 9:00 a.m. on Tuesday, June 17, 1980, in Conference Room D, Veterans Service Building, 20 West 12th Street, St. Paul, Minnesota.

This Report is part of a rulemaking procedure pursuant to Minn. Stat. ch. 15 to determine whether certain amendments to 12 MCAR § 2.160 (Administration of Minnesota Public Social Services) should be adopted. Alan Held, Special Assistant Attorney General, appeared on behalf of the Social Services Division of the Department of Public Welfare. The Department's panel consisted of J. Philip Peterson, Administrative Generalist, Service Administration Section, Division of Social Services, and Herb Cashdollar, Supervisor, Service Administration Section, Division of Social Services.

Eleven persons signed the hearing register and two public witnesses (Darryl Meyer and Paul Arneson) spoke at the hearing.

Subsequent to publication of the proposed amendments in the State Register, but prior to the hearing, several written comments were received from members of the public. The Social Services Division offered two amendments at the hearing, which amendments did not delete from or add to the proposed amendments as published. The record remained open in this matter through June 27, 1980 for the receipt of additional written comments, pursuant to the Hearing Examiner's order. The Department of Public Welfare filed additional commentary prior to the close of the record in which the Department addressed the public testimony raised at the hearing and two written comments received subsequent to the hearing but prior to the close of the record. An additional written comment was received from Hennepin County on June 27, 1980, too late for the Department to respond.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Commissioner of Public Welfare 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 (1978). 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 (1978) 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 September 24, 1979, the Department of Public Welfare published a Notice of Intent to Solicit Outside Opinion concerning the proposed amendments at 4 State Register 495, in accordance with Minn. Stat. § 15.0412, subd. 6. This publication yielded no response.

2. On April 24, 1980, the Social Services Division of the Department of Public Welfare filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed amendments.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.

3. On April 29, 1980, the Social Services Division of the Department of Public Welfare filed a Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

4. On May 12, 1980, a Notice of Hearing and a copy of the proposed amendments were published at 4 State Register 1756.

5. On May 9, 1980, the Department of Public Welfare 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.

6. On May 16, 1980, the Department of Public Welfare filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The affidavit of receipt of the Secretary of State's list.
(d) The affidavit of mailing the notice to all persons on the Secretary of State's list, and an affidavit of additional mailing to all Minnesota county welfare departments, all Minnesota human services boards, all Minnesota area mental health boards, and all Minnesota state hospitals.
(e) The certificate of delivery of the Secretary of State.
(f) The Statement of Need and Reasonableness.
(g) The names of Department personnel who would represent the Agency at the hearing (noted in the Statement of Need and Reasonableness).

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

7. The record remained open through June 27, 1980 for the receipt of written comments and statements, the period having been extended through that date by order of the Hearing Examiner at the close of the hearing. Three public comments and a final statement from the Department of Public Welfare were submitted through the close of business on June 27, 1980.

Statutory Authority

8. The Department of Public Welfare cites Minn. Stat. §§ 256.01, subd. 2(1), 256.011 and 393.07 (1978) as the statutory authority for promulgation of the proposed rule amendments.

estimate has been reached, and we have expended the total amount available in the CASP plan, we have completed our Plan and, therefore, no need exists to go through a formal amendment process. A county's liability for providing services should be limited to a ceiling level. Specifically, this would eliminate the conclusion that a county must provide all services listed in the CASP plan even after the budget has been exhausted. We feel it was not the legislature's intent to allow rules to mandate expenditures of funds."

The Department believes that the proposed changes in section C.1.b. are reasonable and necessary to ensure conformity of the Rule with the Final Comprehensive Annual Services Program Plan (CASP) and to ensure compliance with 45 CFR § 228.36. The Department argues that any failure to formally amend the local social service plan when a change in plan categories or services is being made would, in the event of a federal audit, result in a disallowance of Federal Title XX money. The Department adds that local social services agencies have, for some time, been required to amend their plan if they intend to exclude any such service. After thorough consideration, the Hearing Examiner believes that the Department is correct and finds the proposed amedment to section C.1.b. to be reasonable and necessary. It is the further opinion of the Hearing Examiner that any refusal by a local social services agency to continue to provide a priority or optional service under its annual local services plan to an individual who has demonstrated continued need for that service would be actionable, as a breach of contract, unless that service has been properly "amended out" of the local social services plan.

17. At paragraph C.2., the Department has proposed substitution of the word "shall" for the word "must" and deleted "who need or request them" and added "provided need for such service is determined by the local services agency." The Hearing Examiner finds these changes reasonable and necessary in order to accomplish grammatical and word usage consistency with the rest of the Rule.

18. Additions of the words "including" in paragraph C.2.g. and "including MR guardianship and conservatorship services" in paragraph C.2.h., are found to be reasonable and necessary for clarity in the first instance and in the second instance in order to make it permissible for local social service agencies to claim federal financial participation in the cost of providing such services to children. For purposes of consistency, the Hearing Examiner suggests substitution of the words "mental retardation" for the initials "MR".

19. The Department proposes to add "and adults." to the end of paragraph C.2.i.(2) because 12 MCAR § 2.185 (DPW Rule 185) requires the development of a service plan for all mentally retarded persons. The Hearing Examiner finds this proposed amendment to be reasonable and necessary.

20. The Hearing Examiner finds the editorial changes proposed for section C.3. to be reasonable and necessary, in order to remove the ambiguity raised by usage of the word "significantly."

21. The proposed amendments to sections C.3.h., j.(2), j.(3). and k., are found by the Hearing Examiner to be necessary and reasonable. These include the addition of money management services and residential treatment for individuals who are mentally ill as priority services and make changes in grammar and numbering to clarify the meaning of the Section listing priority services.

The Proposed Amendments

9. 12 MCAR § 2.160 (DPW Rule 160) establishes standards for the administration of social services by county boards of commissioners and human services boards. The stated purposes of the Department of Public Welfare ("Department") in proposing the amendments to 12 MCAR § 2.160 at this time are to improve the clarity of the Rule, to correct statements which have caused confusion and to further bring the Rule into compliance with Federal Regulations pertaining to Title XX of the Social Security Act (specifically 45 CFR Parts 205 and 228). The specific grammatical and substantive changes proposed are discussed below.

10. The Department proposes addition of the phrase "as identified in A.6.t. of the Rule" at the end of the first sentence of section A.1. The Hearing Examiner believes that the proposed addition is reasonable and necessary in order to limit the binding effect of this Rule to social services identified in section A.6.t.

11. The Hearing Examiner finds it reasonable and necessary to add Minn. Stat. ch. "256E" to the authority base for the administration of public services in Minnesota, as proposed in the last sentence of section A.1.

12. At sections A.4., A.5., A.6.o., q., r., and t., C.3., H.8.b. and H.10.b.(1)(a), the Department proposes striking the phrase "county welfare board" and substitution of the language "county boards of commissioners". The Department feels it is reasonable and necessary to make this change because the Community Social Services Act designates the county boards of commissioners as the authority to administer, plan and fund community social service programs. The Hearing Examiner finds the Department's proposal to be reasonable and necessary in light of Minn. Stat. § 256E.09, subd. 1 (1979 Supp.).

13. The Department proposes substituting the word "by" for "in" in paragraph A.6.p. The Hearing Examiner believes it is reasonable and necessary to make this grammatical change in order to clarify the sentence.

14. At the end of the third complete sentence in paragraph A.6.t., the Department proposes to add the words "established pursuant to Minn. Stat. § 245.61-.69." The purpose of this amendment is to more clearly delineate those mental health center programs which are not bound by 12 MCAR § 2.160. The Hearing Examiner believes that the proposed amendment is reasonable and necessary, but he suggests double section notations (§§) before "245.61-.69" for the purpose of proper citation.

15. The Hearing Examiner believes that the proposed change in paragraph B.7., i.e., moving the words "on request" from the end of the second sentence to the beginning of that sentence, is reasonable and necessary for clarification of the meaning of the sentence.

16. Public comment was negative regarding the proposed amendment to section C.1.b. adding a proviso mandating a continuance of priority and optional services until the local social services agency formally amends its local social services plan to exclude that service. The Department feels the amendment is needed to conform with plan amendment procedures spelled out in 45 CFR § 228.36. Michael W. Weber, Director of Community Services for Hennepin County, remarked:

> "We disagree with the intent of C.1.b. which states the county must continue to provide a service until the CASP plan is formally amended. Hennepin County's position is that when a cost

22. The Hearing Examiner finds the editorial changes proposed for Section C.4. to be necessary and reasonable to improve the clarity of the paragraph.

23. At the hearing, the Social Services Division of the Department of Public Welfare, in response to written comments received after publishing the Notice of Hearing, proposed two amendments, both of which are found by the Hearing Examiner to be necessary and reasonable. The first proposal is to add "to be made available by the county board of commissioners or human services board." at the end of paragraph A.6.p. This amendment results in definitional conformity with paragraphs A.6.q. and A.6.r. of the Rule.

The Department also proposes adding a second paragraph to Section E.3., which addition reads:

> "For deaf and hard of hearing individuals who rely on visual language reception as their primary mode of communication, the local agency shall have access to interpreting services (sign language) so that the applicant may receive the same quality of direct services as provided "hearing" clients."

The Hearing Examiner believes that it is more consistent as a matter of grammar to add this sentence to the end of the Section without creating a new paragraph. The amendment itself is a reasonable attempt to prevent discrimination against handicapped persons solely by reason of their handicap. The proposed amendments do not constitute a substantial departure from the amendments as originally published.

24. The Department proposes to add a new Section (E.7.) to 12 MCAR § 2.160, which Section spells out certain due process rights of applicants for and recipients of social services. The Department's panel emphasized at the hearing that there has been a lack of clarity about which local agency actions may be appealable, and this new section is designed to bring the Rule into full compliance with Federal Regulations (specifically 45 CFR § 228.14), and Minn. Stat. § 256.045. The Section also recites the most commonly found examples of appealable actions (based on Department experience) and provides a notice requirement. The Hearing Examiner finds addition of this Section to be necessary and reasonable.

45 CFR § 228.14 defers to 45 CFR § 205.10 for specific definition of notice requirements. In response to a suggestion raised at the hearing by Mr. Darryl Meyer, representing Todd County Social Services, the Department has endorsed an additional amendment to the proposed Section E.7.b. to provide for only five days' notice prior to the effective date of the proposed action (rather than ten) in the event that the agency obtains facts (preferably verified through collateral sources) indicating that a service should be discontinued, suspended, terminated, or reduced because of the possible fraud of the recipient. The Hearing Examiner was not presented with an actual proposed amendment adopting the suggestion in the final written comment of the Department received on June 26, 1980. He suggests that the clause ", mailed to the recipient at least ten days before the effective date of the action," be deleted from, and a sentence more specifically defining timely notice be added to the end of proposed paragraph E.7.b. The definition should be consistent with 45 CFR § 205.10 and state law.

This proposed amendment drew comments from Paul Arneson, representing Dakota County, the Hearing Examiner and others regarding its potential for greatly increasing the appeals load, resulting in a possible substantial increase

in the expenditures of public monies by local public bodies. Under Minn. Stat. § 15.0412, subd. 7 (1978), the Department must file an accompanying document to the notice of the proposed rule, estimating that cost, if such expenditures are estimated at more than $100,000 for either of the two years immediately following adoption of the Rule. The Department either failed to estimate that additional cost or estimated it to be less than $100,000 (which is unclear from the record), and no such statement was filed. There is no credible evidence to suggest that any additional costs to local public bodies will be greater than $100,000 if the amendment is promulgated. It is the opinion of the Hearing Examiner after much consideration of the issue that the promulgation of this Section will not greatly increase the costs to local public bodies due to the fact that the Section generally repeats already existing requirements. Theoretically, there should be no increase in costs to local public bodies because they have been providing for the process contemplated by the proposed Section E.7. already. However, it is the opinion of the Examiner that the very fact that the proposed amendment states that appeals are possible will cause some increased expenditures to local government bodies.

25. The Department proposes addition of the phrase "mutually agreed upon by the agency and the service recipient (or his representative)" to Section G.1. of the Rule in order to make clear the joint effort of the client and the agency in developing a plan for social services. This change is also consistent with the provisions of Sections G.2.a.-d. of the Rule. The Hearing Examiner finds that the proposed amendment is necessary and reasonable.

26. The Department proposes that the words "the client" be substituted for the word "him" in paragraph G.2.a. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

27. It has been the experience of the Department that the service provider is often identified in the client's social services plan, mandatory provisions of which are enumerated at Section G.2. of the Rule. Because of several situations which have come to the attention of the Department involving disputes between local social services agencies and clients regarding who will be providing a service, the Department recommends insertion of the phrase "the service provider;" in paragraph G.2.b. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

28. At paragraph H.2.d., the Department proposes deletion of the word "safeguarded" (which is ambiguous) at the end of the sentence and addition of the phrase "collected, used, stored and disseminated only in accordance with state and federal law." in its place. The Hearing Examiner finds this amendment, which states legal guidelines for protection of the subject information, to be necessary and reasonable.

29. The Department proposes addition of the phrase "duration of" after "to" and before "residence" in paragraph H.2.e. in order to clarify the meaning of the paragraph and bring it into conformity with 45 CFR § 228.11. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

30. The Department recommends deletion of Section H.3. of the Rule in light of the enactment of Minn. Stat. § 256E.07, which establishes a formula for the apportionment of Federal social service funds among the counties, thus rendering the Section null and void. The Hearing Examiner finds this deletion

to be necessary and reasonable, along with the attendant re-numbering of paragraphs 4 through 11 of Section H. (to H.3.-H.10).

31. The Department's proposal for deletion of paragraph H.5.b.(4)(h) (as proposed to be renumbered) has prompted concern from the public that removal of the paragraph may cause the loss of some federal funds. The funds being referred to are to be available without regard to income when the agency believes that a child is subject to, or at the risk of, abuse, neglect or exploitation. To use these funds without regard to income, the agency is required to document those circumstances. The Department is of the opinion that, when a court has intervened on behalf of a child, it is reasonable to believe that the child's "at risk" status has been removed. Federal financial participation is still available if it can be justified based on income guidelines. In effect, the Department believes income should be a factor in such cases. The Hearing Examiner is persuaded that it is reasonable and necessary to delete paragraph H.5.b.(4)(h) from the current Rule in order to guard against improper claims for Federal financial participation.

32. Two minor, clarifying changes are proposed for the renumbered Section H.7. (formerly H.8.). The Hearing Examiner finds that the proposed additions of the language "under age 18" in H.7.a.(2) and "determining Title XX eligibility" in H.7.c.(4) are necessary and reasonable.

33. In sentence two of paragraph H.9.c.(2) (as renumbered), the Department proposes insertion of the word "upon" between "agreed" and "and" in order to make the sentence grammatically correct and improve its clarity. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

34. Regarding paragraph H.10.c.(1) (as renumbered), the Department proposes an addition at the end of the paragraph which represents a significant amendment to the current rule on host county contracting. The Department believes that local social service agencies should have more latitude in refusing, for good cause, to develop a host county contract. This amendment gives recognition to the possibility that even though a vendor is approved (i.e., meeting minimum licensing standards), it is not necessarily in the best interests of the local social services agency requesting a host county contract, or of the social service recipient for whom the contract is being requested, for a contract to be written with certain purchase of service agencies. This amendment also gives recognition to the fact that the host county is in the best position to make such decisions. Good cause refusals to develop a host county contract are limited by this amendment to cases of failure by a vendor to comply with the conditions of past or present contracts or instances where previous contracts have had to be terminated because of failure of the vendor to provide adequate service. The Hearing Examiner finds that it is reasonable and necessary to make this amendment in order to give local social service agencies more decision-making authority in the host county contracting process. The public comment upon this particular change has generally been favorable. The letter submitted to the Hearing Examiner on June 27, 1980 by Michael W. Weber of Hennepin County suggests further additions to the proposed amendment, which the Commissioner may wish to consider.

35. The final amendment proposed is to Section H.10.c.(5)(b) (as renumbered). The words "Area Mental Health Board" and "Area" are struck from the sentence and replaced by "A community mental health board authorized by M.S.

245.61-245.69". The Hearing Examiner finds this proposed amendment to be needed and reasonable, but, as in Finding of Fact No. 14, suggests that the amendment read "A community mental health board authorized by Minn. Stat.§§ 245.61-.69" for the purpose of proper citation.

CONCLUSIONS

1. Due, timely and legally adequate notice of the hearing was properly served and published by the Department.

2. The Department has demonstrated its statutory authority to adopt the proposed rule amendments.

3. The Department has demonstrated the need for and reasonableness of the proposed rule amendments by an affirmative presentation of facts.

4. The additions to the proposed rule amendments which were proposed after publication of the amendments in the State Register do not constitute a substantial change.

RECOMMENDATION

The Hearing Examiner recommends that the proposed amendments to the Rules governing the administration of public social services be adopted by the Commissioner of Public Welfare in accordance with the Findings of Fact herein, with due consideration to the suggestions noted in Findings of Fact Nos. 14, 18, 23, 24, and 35.

Dated this 28th day of July, 1980.

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner

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

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL--Public Welfare
515 Transportation Building

Office Memorandum

TO : Jerry Anderson, Special Assistant Attorney General
Department of Administration

DATE: November 14, 1980

FROM : Alan A. Held, Special Assistant Attorney General

PHONE: 296-8406

SUBJECT: DPW Rule 160, 12 MCAR § 2.160

By this memorandum I authorize you to make the following changes on behalf of the Commissioner of Public Welfare upon the rule as adopted for DPW Rule 160, 12 MCAR 2.160:

C.2. In the last line of this section remove the hyphen from the word "services."

C.2.g. The word "Mental" should use a lower case m.

E.3. The last word of this paragraph should be changed from "hve" to "have."

H.7.c.(8) The reference to Section "H.7." should be changed to "H.6."

Thank you for your assistance.

AAH/aa

cc: Ardo Wrobel

AG copy (A)

EXHIBIT B

DPW Rule 160 As Adopted

PROPOSED AMENDMENT(S) TO RULE 12 MCAR 2.160 - Administration of Minnesota Public Social Services

A. Introduction

1. This rule governs the administration of publicly funded social services in Minnesota as identified in A.6.t. of this rule. The authority for the administration of social services is found in Minnesota Statutes, Chapter 256, and other applicable state laws. Authority is also found in Public Law 93-647, as implemented by Title 45 of the Code of Federal Regulations, Part 228. The delivery of public social services in Minnesota is state supervised and locally administered. The authority for this method of delivery is given in Minnesota Statutes, Chapters 256E, 393 and 402.

2. The Commissioner of Public Welfare may issue bulletins and manual material to local social service agencies and other service providers to clarify the provisions of this rule and may prescribe forms to be used in the administration of social services.

3. Social services shall be administered in a manner to ensure the individual and civil rights of applicants and clients. Information regarding individuals shall not be disclosed, except as provided under applicable state law and/or official departmental rules and regulations.

4. This rule is binding on all county boards of commissioners and human services boards and their respective agencies (hereinafter referred to as local social services agencies) in the State of Minnesota administering and providing social services, the state agency or other service providers under contract to local social services agencies or the state agency and applicants and clients of social services.

5. Sections A through G of this rule apply to county boards of commissioners and those human service boards which assume the responsibility for social services that would be provided by county boards of commissioners. Section H applies to social services funded through Title XX of the Social Security Act of 1935, as amended.

6. Definitions

a. Applicant means an individual who has directly, or through someone acting in his behalf, made application for social services.

b. Application means a request for social services on forms prescribed by the state agency. The application shall contain sufficient information about the applicant to enable the local social services agency to make an eligibility decision. As part of the application process, the applicant shall be informed of his rights and responsibilities as outlined by the state agency.

c. Approved vendor means providers of social services which are licensed, approved as meeting state licensing standards, or where licensing is not required, meet standards or criteria established by the state agency or local social services agency.

d. Categories of individuals means grouping of persons on the basis of common characteristics such as recipient status (Aid to Families with Dependent Children, Supplemental Security Income, Minnesota Supplemental Aid), income level, age and physical or mental condition.

e. Comprehensive Annual Services Program Plan (CASP Plan) means 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.

f. Declaration method means acceptance of an individual's statements regarding the source and amount of his household monthly gross income, and the income maintenance status of any member of the household.

g. Documentation means written evidence, in addition to signed application and income declaration forms, of income maintenance status or household monthly gross income.

h. Federal financial participation (FFP) means federal monies available through Title XX of the Social Security Act to be used in payment for social services.

i. Fees means monies billed and/or collected for the services provided.

j. Geographic area means locally identified political subdivision of the state covered by a social services plan.

k. Gross income means income, prior to any deductions, received from wages or salary; net income from self-employment; net farm income; Social Security payments; dividends, interest, rent received, or royalties; General Assistance payments; pensions and annuities; unemployment compensation; worker's compensation; alimony; child support; veteran's pensions; or any combination of the above sources of income.

l. Host county contract means contractual agreement between a purchase of service vendor and the local social services agency (the host county) where the vendor is located. All other social services agencies wishing to purchase from the vendor are bound by the terms of the host county contract.

m. Income eligible client means an individual needing and receiving social services whose income level is the basis for allowing the agency to claim federal financial participation under Title XX.

n. Income maintenance status means an individual whose eligibility for Title XX federal financial participation in services received is based on his receipt of Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or Minnesota Supplemental Aid (MSA).

o. Local social services agency (also known as local agency) means local agency under the authority of the county board of commissioners or human services board which is responsible for social services.

HE 23 and see DPW Ex. 1 attached to Rules as Prop

p. Mandatory services means services required by agency rule, state law or federal regulation, to be made available by the county board of commissioners or human services board.

q. Optional services means services available at the discretion of the county board of commissioners or human service board.

r. Priority services means services the state agency strongly recommends be made available by the local social services agencies, but which are available at the discretion of the county board of commissioners or human services board.

s. Provider means agency or individual delivering services.

t. Social services means those services which are included in the Minnesota Comprehensive Annual Services Program Plan. Such services include, but are not limited to: adoption, chore, counseling, developmental achievement for adults and children, day care for adults and children, educational assistance, employability, family planning, foster care for adults and children, health, home delivered and congregate meals, homemaking, housing, information and referral, legal, money management, protection for adults and children, residential treatment, social and recreational, and transportation. Social services do not include income maintenance programs, mental health center programs established pursuant to Minn. Stat. §§245.61-69, health department programs or CETA programs unless there happens to exist a Title XX purchase of service contract between the county board of commissioners and those other programs.

HE 14

u. Source document means a written statement such as a paycheck stub or birth certificate used to verify income, age, etc.

v. State Administrative Plan means a federal approved statewide plan for the administration of the Title XX Program. The State Administrative Plan establishes the requirements in Section H. 2. of this rule.

w. State agency means Minnesota Department of Public Welfare.

x. Vendor means agency or individual from whom services are purchased.

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B. State and local social services planning

1. The Comprehensive Annual Services Program Plan year shall be October 1 through September 30.

2. On or before a date stipulated by the state agency, each local social services agency shall submit to the state agency a plan for service delivery and a budget to support that plan. The plan and budget shall be in accordance with the Local Social Services Plan Guidelines and budget forms prescribed by the state agency.

3. The political entity covered by a local social services plan shall be known as the geographic area. The following criteria shall be followed in establishing geographic areas:

a. A county may designate itself as a geographic area.

b. No political subdivision smaller than a county shall be designated as a geographic area.

c. A political subdivision larger than one county may be designated a geographic area if one of the following conditions is met:

(1) Counties have combined for administrative purposes under a joint powers agreement, executed pursuant to Minn. Stat. 393.01, Subd. 7.

(2) Counties have combined under provision of the Human Services Act, or

(3) Contiguous counties within the same Governor's Economic Region or two or more regions have elected by board action to submit a multicounty plan that provides the same services to the same eligibility groups in all counties in that geographic area.

(4) There is a state contract for a service, and that service is available statewide.

4. Services provided may differ among geographic areas, except for mandatory services, which must be available on a statewide basis.

5. Priority and optional services included in geographic area plans shall be available to all persons in eligible categories specified in the plan.

6. On or before July 1 of each year, the state agency shall publish a proposed Comprehensive Annual Services Program Plan for the delivery of public social services. A copy of the proposed plan shall be available from the state or local social services agencies at no cost to any individual on request.

a. There shall be a 45-day period, beginning July 1, for public review and comment on the proposed plan.

b. Public meetings may be held throughout the state to answer questions and receive public comment on the proposed annual plan.

7. On or before October 1 of each year, the state agency shall publish the final Comprehensive Annual Services Program Plan. On request, a copy of the final plan shall be available from the state or local social services agencies at no cost to any individual.

8. The Comprehensive Annual Services Program Plan may be amended by the state agency on its own initiative or at the request of a local social services agency with state agency approval.

a. The proposed amendment shall be published in all geographic areas affected by the amendment, and there shall be a 30-day public review and comment period on the proposed amendment.

b. The final amendment shall be published in all geographic areas affected by the amendment and shall not be effective earlier than the date of publication.

C. Local agency duties and responsibilities

1. The local social services agency shall provide social services as required by law and the local social services plan. These services may be provided directly by the agency, purchased, or arranged for at no cost to the local social services agency.

a. Mandatory services shall be provided in accordance with the individual service plan to all persons who need them as determined by the local social services agency.

b. Priority and optional services shall be provided to persons requesting them if a need for them is determined by the local social services agency in accordance with the individual service plan. The local social services agency's obligation to provide priority and optional services need not exceed the cost estimate for each service specified in the annual local social services plan provided, however, such services shall continue to be provided until the local social services agency formally amends the local social services plan to exclude the service(s).

2. The following services or components of services are mandatory under federal or state law and shall be provided by the local social services agency to all persons in each geographic area provided need for such service is determined by the local social ~~services~~ services agency.

a. Adoptive services

(1) Adoptive home studies on court referred adoption petitions.

(2) Adoptive home studies for applicants wishing to adopt minority or handicapped children.

(3) Placement and follow-up for all children placed under agency auspices.

b. Developmental achievement services.

c. Day care services - For children receiving Aid to Families with Dependent Children (AFDC) whose parents are employed or in training for employment.

d. Family planning services - Education or counseling for individuals receiving Aid to Families with Dependent Children.

e. Foster care services for children.

f. Health related services required under the Minnesota Hospitalization and Commitment Act - For individuals needing institutional treatment; community alternatives to institutional care for mental illness, chemical dependency or mental retardation; and management of individualized service plans on release from state institutions.

g. Protective services for adults - including ~~Mental~~ mental retardation guardianship and conservatorship services.

h. Protective services for children - including mental retardation guardianship and conservatorship services. HE 18

i. Residential Treatment Services

(1) For emotionally disturbed children in licensed residential treatment centers or group homes.

(2) For mentally retarded children CHE(1) and adults.

j. Employability services - For individuals receiving Aid to Families with Dependent Children.

3. The following services, or components of services, are priority services, not made mandatory by federal or state law, but which have been funded by the state in the past or which have been provided in the past. That is, priority services are based upon historical practice. Priority services are available at the discretion of the county board of commissioners or human services board. The state agency strongly recommends these services be made available by local social services agencies.

a. Chore services - For individuals receiving Supplemental Security Income.

b. Day care services for children - For children of working parents in income eligible categories.

c. Family planning services

(1) Education or counseling for individuals in the income eligible categories.

(2) Health related services and supplies for individuals in the income eligible categories.

d. Health related services - Other than those required by the Minnesota Hospitalization and Commitment Act as defined in the Comprehensive Annual Services Program Plan.

e. Home delivery and congregate meals

(1) For individuals receiving Supplemental Security Income.

(2) For individuals who are in the income eligible categories.

f. Homemaking services including, but not limited to, attendant care.

(1) For all adults.

(2) For children during the temporary absence of the parent responsible for their care.

g. Information and referral services

h. Money management services

i. Protective Services for Adults - Other than subacute detoxification services and mental retardation guardianship services.

j. Residential Treatment Services

(1) Primary treatment for individuals who are chemically dependent.

(2) Residential treatment for individuals who are mentally ill.

(3) Halfway house for individuals who are chemically dependent or mentally ill.

k. Transportation services - For individuals receiving Supplemental Security Income.

(D)

1. Employability services

(1) For Supplemental Security Income-Minnesota Supplemental Aid recipients.

(2) For low-income persons who are income eligible.

4. The following services, or components of services, shall be made available at the option of the local social services agency. These optional services have past records of delivery or state funding that have not been as significant as the provision of priority services found in section C.3. of this rule.

a. Day care for children - For families on a fee basis who are not in the income eligible categories.

b. Day care for adults

c. Education assistance

d. Foster care for adults

e. Home delivered and congregate meals

(1) For individuals receiving Aid to Families with Dependent Children.

(2) For individuals on a fee basis who are not in the income eligible categories.

f. Housing services

g. Legal services

h. Social and recreational services

i. Transportation services - other than Supplemental Security Income.

j. Counseling services for families and individuals

D. Client information for social services

1. Information gathered on clients shall be used for the provision of services and the management of the program and shall be limited to the information necessary for these purposes.

2. Clients shall be informed that information on them is collected, used, stored and disseminated.

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3. Information regarding clients shall be collected, used, stored, and disseminated only in accordance with state and federal law.

4. Officials directly related to the provision of service and administration of the program shall have access to client information. These officials may include those of the agency to which the client applies, those of the agency providing service, federal and state auditors, evaluators, and researchers with the authorization of the Commissioner of Public Welfare.

E. Application

1. Each individual wishing to apply for social services shall be given the opportunity to do so without delay.

a. Applications shall not be required for information and referral services.

b. At local agency option, applications may be required for determining group eligibility. However, whether or not applications are required, the local social services agency shall obtain sufficient information to document the basis for the group eligibility decision. EXCEPTION: Clients requesting family planning services, whether based on group eligibility or individual eligibility, shall make written application in order to document that the request is voluntary.

2. Except as provided for in E. 1. above, each application shall be completed, signed, and dated by the applicant or by a responsible individual acting on behalf of the applicant on an application form prescribed by the state agency. If for reason of age, incompetence, noncooperation or any other valid reason the applicant cannot sign the application, the following may sign in descending order of priority:

a. Legal guardian of the applicant.

b. Relative of the applicant.

c. Friend of the applicant.

d. Agency representative.

3. Before an applicant's signature is requested on any forms, each applicant shall be given a complete and comprehensive written statement of his rights and responsibilities on the form prescribed by the state agency. For those individuals who cannot make use of/or understand the written statement for any reason, the agency representative shall read out loud or interpret (if foreign language interpreting capability is available) and explain the written statement to the individual or to a responsible person acting on behalf of the individual. The agency representative also shall respond to any questions the applicant or his representative may have. For deaf and hard of hearing individuals who rely on visual language reception as their primary mode of communication, the local agency shall ~~hve~~ have access to interpreting services (sign language) so that the applicant may receive the same quality of direct services as provided "hearing" clients.

HE 23 + see attachment to Rules as Prop.

4. Each applicant or his representative shall declare his income on a form prescribed by the state agency, and shall sign and date the form. This form need not be completed if:

a. The applicant will only receive services without regard to income; or

b. The agency does not intend to claim Title XX federal financial participation (FFP) for the services to be provided; or

c. The applicant will only receive services on the basis of group eligibility.

5. The agency shall act promptly on the application. The agency shall not take longer than 30 days to make an eligibility decision and the agency shall not take longer than 15 days after the eligibility decision to notify the applicant in writing that his application has been approved or denied. The notification date and reason for denial or approval shall be entered in the case record. If the application is denied, the individual shall be notified in writing of the reason for denial and of his right to appeal to the state agency.

6. If application is approved, the local social services agency shall provide the social services with reasonable promptness. Reasonable promptness means:

a. Within 15 calendar days after the applicant has been notified of his eligibility; or

b. At an appropriate later date which has been mutually agreed upon by the local social services agency and the applicant.

7. Applicants for and recipients of social services shall have the right to a fair hearing to appeal any denial, reduction, or termination of a service, or failure of the local social services agency to act upon a request for service with reasonable promptness.

a. The following are examples of appealable actions:

1. Failure to act upon on application within the prescribed time limits;

2. Reduction of quality or quantity of social services;

3. Denial of a request for a specific social service;

4. Termination of social services;

5. Disagreement with the social services plan developed between the recipient and the agency. An appeal shall also be authorized relative to any matter which is appealable based on state law or rule or federal law or regulation as they currently exist, or as they may exist based on subsequent amendments.

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b. The local social services agency shall give the social services recipient timely, advance notice of any proposed agency action which may adversely affect the recipient. This notice shall be in writing and shall inform the recipient of the right to appeal the action, the right to be represented by an attorney or other interested party at the hearing, and the conditions under which social services may be continued. Furthermore, the letter shall cite the specific Rule upon which the reduction or termination of services is based. The local social services agency shall mail the notice to the recipient at least ten days before the action becomes effective. However, when the local social services agency learns that social services should be discontinued, reduced or terminated because of probable fraud of the recipient, and, where possible, such facts have been verified through collateral sources, notice of agency action shall be considered timely if mailed at least five days before the action becomes effective.

HE 24 + Order Adopting

F. Client's right to accept or reject services

The applicant, if legally competent, shall have free choice to accept or reject an agency assessment of a need for social services or an offer of social services. A refusal to accept social services shall not affect payment of financial assistance under income maintenance programs except in the Work Incentive Program. The local social services agency is not relieved of its statutory responsibility to provide protective services by the refusal of such services by any person who needs such services or acts on behalf of anyone who needs social services. In these instances when a statutorily required service is rejected, the person or his caretaker or guardian shall be given a clear explanation of the possible consequences of that choice.

G. Client social services plan

1. Whether services are provided directly by the local social services agency or through a contract with another provider, there shall be a plan mutually agreed upon by the agency and the service recipient (or his representative) for the provision of services for each family or individual receiving services.

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2. The client social services plan shall:

a. Be developed with the person receiving service. If the client is unable to participate in developing the plan, the plan shall be developed with the person responsible for the client.

b. Identify the needs for service (reasons for agency involvement); the specific services to be provided; the service provider; and the objectives to be achieved.

c. Specify the frequency (weekly, every other week, monthly, etc.) and purpose of contacts between worker and client.

d. State the anticipated time necessary to accomplish the identified objectives.

e. Specify mutually agreed upon times for review of the plan, to assess progress and revise, as necessary. The plan shall be reviewed at least annually.

F. Title XX of the Social Security Act

1. Goals: Federal financial participation under Title XX of the Social Security Act shall be available to the extent federal funds are allotted for eligible individuals and services which are specified in the local social services plan. Social services shall be provided to achieve the following goals:

a. Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

b. Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

c. Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests;

d. Preserving, rehabilitating, or reuniting families;

e. Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or

f. Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

2. State administrative plan requirements:

a. The Minnesota Department of Public Welfare shall be the designated state agency for Title XX.

b. State and local funds shall be included in meeting the cost of the program.

c. Personnel administration shall be governed by rules of the State Merit System or respective county civil service system.

d. The use and disclosure of information on applicants and clients shall be collected, used, stored and disseminated only in accordance with state and federal law.

e. There shall be no requirements as to duration of residence or citizenship in respect to eligibility for Title XX federal financial participation in costs of services provided.

f. Standards for institutions and foster homes shall be established by state licensing rules.

g. Standards for child day care services shall be established by state licensing rules.

h. A system of fair hearings shall be established under which an applicant may appeal denial, reduction, or termination of service.

i. The State Administrative Plan shall be amended when necessary.

j. Amendments to the State Administrative Plan shall be submitted to the Department of Health, Education, and Welfare by the State Department of Public Welfare.

k. Records shall be maintained and reports made to the federal agency as required by federal regulations.

l. The aggregate state expenditures for social services shall not be reduced below the aggregate expenditures for the fiscal year ending June 30, 1973.

3. Eligible categories: Title XX shall be available for all mandatory, priority and optional services provided to eligible categories of individuals and families, when these services and categories are included in the local social services plan. Eligible categories of individuals are as follows:

a. Income maintenance eligible categories:

(1) Current recipients of Aid to Families with Dependent Children (AFDC).

(2) All individuals, not in the Aid to Families with Dependent Children grant, including stepfathers, but excluding foster parents, who are adult caretakers of children receiving Aid to Families with Dependent Children.

(3) Recipients of Supplemental Security Income (SSI) or Minnesota Supplemental Aid (MSA).

b. Income eligible categories:

(1) Individuals and families eligible without a fee.

(2) Individuals and families eligible with a fee.

(3) Individuals and families whose eligibility is determined on a group basis as specified in Section H. 5. of this rule.

c. Eligible without regard to income:

(1) Individuals receiving information and referral services.

(2) Individuals receiving services directed toward the goal of protection as specified in Section H. 5. of this rule. (For cross-reference, see 45 CFR 228.65.)

(3) Minors who voluntarily request family planning services as specified in Section H. 6. of this rule.

4. Group eligibility - With state agency approval, local social services agencies have the option to include in the geographic area plan group determination of eligibility for social services as provided in and subject to federal regulations for Title XX.

5. Services directed toward the goal of preventing or remedying neglect, abuse, or exploitation without regard to income

a. Adults

(1) Title XX funds shall be available for services provided to adults who are unable to protect their own interests because of the actions or inactions of themselves or others which may result in injury, neglect, maltreatment, or exploitation. These adults shall include, but not be limited to, battered women.

(2) The local social services agency shall document by entering into the case record for each adult the circumstances which lead the agency to believe the adult is subject to or in risk of being abused, neglected or exploited. A social services plan shall be developed that is directed toward protecting the adult or assisting the adult in protecting his interests.

(3) No later than six months after the case has been opened, and every six months thereafter while the case remains open, the local social services agency shall reevaluate and document the continued need for services for preventing or remedying neglect, abuse, or exploitation of the adult. The appropriateness of the social services plan shall be reassessed at the same time.

(4) Federal financial participation shall be available without regard to income for the following services and activities for adults in need of protection:

(a) Identification of adults who are in need of protection.

(b) Provisions for the receipt and response to reports.

(c) Substantiation of the allegations.

(d) Counseling services with the adult or others responsible or interested in the adult's welfare when provided by the local social services agency.

(e) Assistance in arranging alternative living arrangements, medical care, legal services, and other services in the community.

(f) Assistance in arranging for guardianship, conservatorship, and commitment, or for providing advocacy, including legal services to assure the adult of rights and entitlements.

(g) Emergency homemaking services not to exceed 30 cumulative days in any 12-month period.

(h) Money management services.

(5) Eligibility for other social services in the Comprehensive Annual Services Program Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

b. Children

(1) Title XX funds shall be available to prevent or remedy child neglect, abuse or exploitation. Title XX funds shall also be available for runaways harmed or threatened with harm by virtue of their status as runaways.

(2) The local social services agency shall document by entering into the case record for each child, that the child is harmed or threatened with harm. Such harm shall be identified as nonaccidental physical or mental injury, sexual abuse as defined in Minn. Stat. 626.556, or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. Harm or threatened harm to a runaway shall also be documented.

(3) No later than six months after the case has been opened and every six months thereafter while the case remains open, the local social services agency shall reevaluate and document the continued need for services to prevent or remedy neglect, abuse or exploitation of a child. The appropriateness of the social services plan shall be reassessed at the same time.

(4) Federal financial participation shall be available without regard to income for the following services and activities for children in need of protection.

(a) Identification and social/medical diagnosis of such a child or condition.

(b) Provision for the receipt and response to reports.

(c) Substantiation of the allegations.

(d) Counseling services for families and individuals when provided by the local social services agency.

(e) Emergency shelter not to exceed 30 days in any six-month period which may be consecutive or may accumulate over more than one stay.

(f) Arranging for the provision of other services, when essential to the protection of the child.

(g) Legal representation or advocacy for the child.

(h) All appropriate social services in the Comprehensive Annual Services Program Plan which are necessary to protect runaways harmed or threatened with harm.

(i) Emergency homemaking services not to exceed 30 cumulative days in any 12-month period.

(j) Money management services.

(5) Eligibility for other social services in the Comprehensive Annual Services Program Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

6. Family planning services

a. Title XX federal financial participation shall be available for family planning services provided at the option of the local social services agency to minors (under age 18) who voluntarily request such services.

b. When a minor requests family planning services, he shall be informed that his parents need not be contacted in order for him to receive services. The local social services agency shall contact the minor's parents regarding his receipt of family planning services only with the written consent of the minor.

7. Household:

a. The following individuals living in the same domicile shall be considered a household for purposes of determining eligibility for Title XX funding:

(1) Spouses.

(2) Parents and their dependent children under age 18.

b. Household members (parents and their children under age 18) temporarily absent from the household in settings such as residential treatment, foster care, and school shall be considered members of the household.

c. The following individuals shall be considered a one-person household for purposes of determining eligibility for Title XX:

(1) An adult living alone.

(2) An adult living with individuals other than a spouse or dependent children.

(3) A child living with a relative other than a parent or legal guardian.

(4) An emancipated minor. For purposes of determining Title XX eligibility an emancipated minor is an individual under the age of 18:

(a) Who has married; or

(b) Who is living apart from his parents and managing his own financial affairs; or

(c) Who is seeking one or more of the following Title XX services--family planning, health services, residential treatment for chemical dependency, or counseling related to pregnancy, venereal disease or chemical dependency--and has:

(i) Born a child; or

(ii) Wishes to determine the presence of or treat pregnancy, venereal disease, or chemical dependency.

(5) A child whose parental rights are terminated.

(6) A child living in adoptive placement prior to finalization of the adoption.

(7) A child who is not living with his parents or legal guardian and who is seeking confidential services (social services related to determining or treating pregnancy, venereal disease, alcohol and other drug abuse as provided for in Minnesota Statute 144.343).

(8) A minor child regardless of living arrangement who receives family planning services as specified in H. ~~7.~~ 6. of this rule. 98

(9) A child who is not living with his parents but whose parents are under a juvenile court order to contribute to his support as a result of a finding of dependency, neglect, or delinquency.

8. Determination of eligibility for Title XX federal financial participation.

a. Different methods of determining eligibility for Title XX funds may be implemented for different services, categories of individuals, and geographic areas.

b. Through official county board of commissioners/human (CHE(3)) services board action, each geographic area shall establish methods of determining eligibility.

c. At a minimum, such method shall be the declaration method, with the exception that when a local social services agency has reason to believe a client is giving false information, the agency may then require the client to document the information.

d. When the documentation method is used:

(1) Federal financial participation shall be available only to meet the cost of services provided to clients whose income maintenance status or household monthly gross income has been documented.

(2) Adequate documentation shall include written evidence of income maintenance status or household monthly gross income in addition to the signed application and income declaration forms. This written evidence shall include either:

(a) A copy of a source document filed in the case record; or

(b) A written statement by the worker which specifies the content of the source document.

(3) Failure on the part of an applicant to cooperate in documenting income shall be acceptable grounds for delay beyond 30 days in processing an application or denial of eligibility for Title XX federal financial participation in services requested.

(4) Contact with other individuals or agencies shall be made only with the prior written permission of the applicant and shall be made only when there is no other way to document income.

(5) If an applicant declares that income is received as cash without a receipt, the local social services agency shall request the client to secure a receipt from the employer.

(6) If documentation cannot be obtained in any other manner, the local agency shall contact the employer, after gaining the written permission of the applicant. If a purchase of service contract permits the vendor to document eligibility and if contact with a third party is necessary, the vendor shall inform the applicant that the applicant has the right to have the local social services agency, rather than the vendor, make the contact.

e. Applicant declaration of household size shall be accepted without documenting evidence, unless there is reason to question the declaration, in which case birth certificates or other documentation is required.

f. Time period for determination of eligibility for Title XX federal financial participation:

(1) Income maintenance status shall be based on the month of application for services or the month prior to application for services.

(2) Household monthly gross income shall be based on either:

(a) Prospective monthly gross income for the month in which application for services is made; or

(b) An average monthly amount estimated over any six (6) consecutive month period in which the month of application is included.

g. An individual shall remain eligible for a maximum of six months from the date eligibility was initially determined. Eligibility may be redetermined at any time by the local social services agency.

EXCEPTION: Eligibility shall be redetermined annually for individuals whose household monthly gross income is derived exclusively from pensions, Social Security, or Supplemental Security Income, or a combination of these.

9. Social services fee

a. When Title XX federal financial participation is claimed for service provided to individuals and families who are income eligible without a fee, no social services fee shall be charged to the client.

b. When a local social services agency wishes to claim federal financial participation for services provided to individuals and households who are income eligible with a fee, a social services fee shall be charged according to the statewide fee schedule in the Comprehensive Annual Services Program Plan.

c. Local social services agencies shall make a reasonable effort to collect fees charged. Evidence of a reasonable effort shall exist if the local social services agency documents that at least 90% of the fees imposed have been collected. If this test cannot be documented, then a reasonable effort shall exist if the following conditions are met and documented:

(1) A bill is rendered or notice given to the client at the time of eligibility determination of the fee amounts and dates due; and

(2) At least three collection notices are given in person or by mail to the client, at approximately 30-day intervals; and a client's Title XX eligibility has been terminated if the fee remains delinquent after three collection notices have been given. A client's Title XX eligibility cannot be regained until a plan of payment has been agreed upon and implemented by the client and the agency.

d. The fee charged shall be the amount indicated on the appropriate fee schedule, in the Comprehensive Annual Services Program Plan, except that no fee shall exceed the actual cost of all the services in the service plan.

(1) Fees for residential services for emotionally disturbed, mentally retarded, and epileptic children shall be consistent with Minnesota cost of care laws and rules.

(2) When services are being provided in addition to residential services for emotionally disturbed, mentally retarded and epileptic children, two fees shall be computed and imposed, one for residential services and one for all other services received.

10. Purchase of service contracting

a. General provisions

(1) The local social services agency shall deliver social services subject to federal financial participation under Title XX by direct delivery, by purchase, or by arranging the services at no cost to the agency.

(2) As an alternative to providing such services directly and if not available without cost to the agency, the local social services agency may purchase services from public, nonprofit or proprietary agencies, or from individuals who have been designated as approved vendors.

(3) Services purchased with the intention of claiming federal financial participation must be listed in the Comprehensive Annual Services Program Plan.

(4) At the option of the local social services agency, these same policies and procedures may be utilized for purchased services not subject to federal financial participation.

b. Administrative requirements

(1) The local social services agency shall:

(a) Claim federal financial participation only for services purchased through a written contract. Every purchase of service contract shall be completed, signed and approved by the county board of commissioners or human services board prior to the provision of services.

(b) Be responsible for client eligibility for purchased services; however, the local agency may make provision in the contract for the provider to make a determination of eligibility.

(c) Be responsible for the development of a client service plan based on the needs of the individual and the ability of the provider to meet those needs.

(d) Be responsible for monitoring purchased services and evaluating contract performance.

(e) Purchase only from approved vendors.

(2) Case record requirements for direct services shall apply to purchased services.

(3) The local social services agency shall maintain an administrative file for each contract which contains:

(a) A copy of the signed and completed contract.

(b) Copies of correspondence between the provider and the local agency.

(c) Evidence that the determination of reimbursement eligibility and authorization of approval of client social services plan have been made.

(d) Copies of monitoring and evaluation reports.

(e) Copies of correspondence between the local agency and the state agency related to the contract.

(f) Copies of fair hearings, complaints, grievances, and inquiries related to contract performance.

(g) Financial, statistical, and social services reports specified in the contract.

c. Host county contracting

(1) The local social services agency of the county in which an approved provider is located shall negotiate and administer host county purchase of service contracts on behalf of any other local social services agency wishing to purchase services, provided, however, that if a local social services agency (host county) does not want to comply with this provision because it is being required to administer (for another local social services agency) a host county purchase of service contract 1) with a provider who has not complied with the conditions of past or present contracts, or 2) with a provider whose previous contract with the host county was terminated for failure to provide adequate service, the host county local social services agency may refuse to enter into such a contract.

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(2) All local social services agencies shall abide by the terms of the host county contract.

(3) The host county shall assume responsibility for monitoring and evaluation of the contract.

(4) The host county shall make available, on the request of other local social services agencies, copies of the host county contract.

(5) The following exceptions apply:

(a) The host county need not enter a contract unless there is at least one other local agency wishing to purchase from the provider; and

(b) Each local social services agency within the area served by a community mental health board authorized by Minn. Stat. §§245.61-245.69 may contract directly with the board; however, if a local social services agency outside of the geographic area served by the board wishes to purchase services, the host county policy applies. HE 35

d. Technical assistance - The local social services agency shall provide technical assistance and information to potential providers, draft contracts for purposes of negotiation, and assist providers in matters of recordkeeping, statistical reporting, and determination of rates of payment.

DR-48

APPROVED AS TO FORM AND LEGALITY

11/13 1980

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 1 1980
Joan Anderson Growe
Secretary of State

1:10 P.M.

Our File #646

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 10/24 DUE DATE (11/4) 11/13

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary 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 ✓ 6.17.80.
   Sufficiency ✓ note affidavit of completeness.
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 A) ✓ B) additional mailing ✓
   At least 30 days prior to hearing ✓ 5.9.80
10. Publication in State Register ✓ (1 copy in "originals" file)
    At least 30 days prior to hearing ✓ 5.12.80
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓ combined with #15 - Order Adopting
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A
15. Order Adopting ✓
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓ 9.24.79
20. Petition by Public, where applicable N/A
21. Affidavit + Notice, submittal to AG. ✓

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

July 29, 1980

Mr. Arthur E. Noot, Commissioner
Department of Public Welfare
4th Floor, Centennial Office Building
St. Paul, Minnesota - 55155

RE: In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to 12 MCAR 2.160 (DPW Rule 160) Governing the Administration of Public Social Services.
HE Docket No. DPW-80-035-RL

Dear Commissioner Noot:

I enclose herewith and serve upon you by mail the Report of the Hearing Examiner in the above-entitled matter together with the official record, and I am closingour file in this case.

Yours very truly,

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner
(612)296-8114

RCL/eag
Encs.
CC: Mr. Alan Held
Special Assistant Attorney General

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

Richard C. Luis, being first duly sworn, deposes and says that at the City of St. Paul, county and state aforementioned, on the 29th day of July, 1980, he served the attached Report of the Hearing Examiner by depositing in the United States mail at said city of St. Paul, a true and correct copy thereof, properly enveloped, with first class postage prepaid and addressed to:

Mr. Arthur E. Noot, Commissioner
Department of Public Welfare
4th Floor, Centennial Office Building
St. Paul, Minnesota - 55155

Mr. Alan Held
Special Assistant Attorney General
515 Transportation Building
St. Paul, Minnesota - 55155

Richard C. Luis

Subscribed and sworn to before me
this 29th day of July, 1980.

Eileen A. Gaiovnik

EILEEN A. GAIOVNIK
Notary Public, Ramsey Co. Mn.
MY COMMISION EXPIRES
December 14, 1980

DPW-80-035-RL

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE
SOCIAL SERVICES DIVISION

In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to 12 MCAR 2.160 (DPW Rule 160) Governing the Administration of Public Social Services.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Richard C. Luis, Hearing Examiner assigned by the Chief Hearing Examiner, at 9:00 a.m. on Tuesday, June 17, 1980, in Conference Room D, Veterans Service Building, 20 West 12th Street, St. Paul, Minnesota.

This Report is part of a rulemaking procedure pursuant to Minn. Stat. ch. 15 to determine whether certain amendments to 12 MCAR § 2.160 (Administration of Minnesota Public Social Services) should be adopted. Alan Held, Special Assistant Attorney General, appeared on behalf of the Social Services Division of the Department of Public Welfare. The Department's panel consisted of J. Philip Peterson, Administrative Generalist, Service Administration Section, Division of Social Services, and Herb Cashdollar, Supervisor, Service Administration Section, Division of Social Services.

Eleven persons signed the hearing register and two public witnesses (Daryl Meyer and Paul Arneson) spoke at the hearing.

Subsequent to publication of the proposed amendments in the State Register, but prior to the hearing, several written comments were received from members of the public. The Social Services Division offered two amendments at the hearing, which amendments did not delete from or add to the proposed amendments as published. The record remained open in this matter through June 27, 1980 for the receipt of additional written comments, pursuant to the Hearing Examiner's order. The Department of Public Welfare filed additional commentary prior to the close of the record in which the Department addressed the public testimony raised at the hearing and two written comments received subsequent to the hearing but prior to the close of the record. An additional written comment was received from Hennepin County on June 27, 1980, too late for the Department to respond.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Commissioner of Public Welfare 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 (1978). 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 (1978) 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 September 24, 1979, the Department of Public Welfare published a Notice of Intent to Solicit Outside Opinion concerning the proposed amendments at 4 State Register 495, in accordance with Minn. Stat. § 15.0412, subd. 6. This publication yielded no response.

2. On April 24, 1980, the Social Services Division of the Department of Public Welfare filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed amendments.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.

3. On April 29, 1980, the Social Services Division of the Department of Public Welfare filed a Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

4. On May 12, 1980, a Notice of Hearing and a copy of the proposed amendments were published at 4 State Register 1756.

5. On May 9, 1980, the Department of Public Welfare 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.

6. On May 16, 1980, the Department of Public Welfare filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The affidavit of receipt of the Secretary of State's list.
(d) The affidavit of mailing the notice to all persons on the Secretary of State's list, and an affidavit of additional mailing to all Minnesota county welfare departments, all Minnesota human services boards, all Minnesota area mental health boards, and all Minnesota state hospitals.
(e) The certificate of delivery of the Secretary of State.
(f) The Statement of Need and Reasonableness.
(g) The names of Department personnel who would represent the Agency at the hearing (noted in the Statement of Need and Reasonableness).

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

7. The record remained open through June 27, 1980 for the receipt of written comments and statements, the period having been extended through that date by order of the Hearing Examiner at the close of the hearing. Three public comments and a final statement from the Department of Public Welfare were submitted through the close of business on June 27, 1980.

Statutory Authority

8. The Department of Public Welfare cites Minn. Stat. §§ 256.01, subd. 2(1), 256.011 and 393.07 (1978) as the statutory authority for promulgation of the proposed rule amendments.

The Proposed Amendments

9. 12 MCAR § 2.160 (DPW Rule 160) establishes standards for the administration of social services by county boards of commissioners and human services boards. The stated purposes of the Department of Public Welfare ("Department") in proposing the amendments to 12 MCAR § 2.160 at this time are to improve the clarity of the Rule, to correct statements which have caused confusion and to further bring the Rule into compliance with Federal Regulations pertaining to Title XX of the Social Security Act (specifically 45 CFR Parts 205 and 228). The specific grammatical and substantive changes proposed are discussed below.

10. The Department proposes addition of the phrase "as identified in A.6.t. of the Rule" at the end of the first sentence of section A.1. The Hearing Examiner believes that the proposed addition is reasonable and necessary in order to limit the binding effect of this Rule to social services identified in section A.6.t.

11. The Hearing Examiner finds it reasonable and necessary to add Minn. Stat. ch. "256E" to the authority base for the administration of public services in Minnesota, as proposed in the last sentence of section A.1.

12. At sections A.4., A.5., A.6.o., q., r., and t., C.3., H.8.b. and H.10.b.(1)(a), the Department proposes striking the phrase "county welfare board" and substitution of the language "county boards of commissioners". The Department feels it is reasonable and necessary to make this change because the Community Social Services Act designates the county boards of commissioners as the authority to administer, plan and fund community social service programs. The Hearing Examiner finds the Department's proposal to be reasonable and necessary in light of Minn. Stat. § 256E.09, subd. 1 (1979 Supp.).

13. The Department proposes substituting the word "by" for "in" in paragraph A.6.p. The Hearing Examiner believes it is reasonable and necessary to make this grammatical change in order to clarify the sentence.

14. At the end of the third complete sentence in paragraph A.6.t., the Department proposes to add the words "established pursuant to Minn. Stat. § 245.61-.69." The purpose of this amendment is to more clearly delineate those mental health center programs which are not bound by 12 MCAR § 2.160. The Hearing Examiner believes that the proposed amendment is reasonable and necessary, but he suggests double section notations (§§) before "245.61-.69" for the purpose of proper citation. complied p.3

15. The Hearing Examiner believes that the proposed change in paragraph B.7., i.e., moving the words "on request" from the end of the second sentence to the beginning of that sentence, is reasonable and necessary for clarification of the meaning of the sentence.

16. Public comment was negative regarding the proposed amendment to section C.1.b. adding a proviso mandating a continuance of priority and optional services until the local social services agency formally amends its local social services plan to exclude that service. The Department feels the amendment is needed to conform with plan amendment procedures spelled out in 45 CFR § 228.36. Michael W. Weber, Director of Community Services for Hennepin County, remarked:

> "We disagree with the intent of C.1.b. which states the county must continue to provide a service until the CASP plan is formally amended. Hennepin County's position is that when a cost

estimate has been reached, and we have expended the total amount available in the CASP plan, we have completed our Plan and, therefore, no need exists to go through a formal amendment process. A county's liability for providing services should be limited to a ceiling level. Specifically, this would eliminate the conclusion that a county must provide all services listed in the CASP plan even after the budget has been exhausted. We feel it was not the legislature's intent to allow rules to mandate expenditures of funds."

The Department believes that the proposed changes in section C.1.b. are reasonable and necessary to ensure conformity of the Rule with the Final Comprehensive Annual Services Program Plan (CASP) and to ensure compliance with 45 CFR § 228.36. The Department argues that any failure to formally amend the local social service plan when a change in plan categories or services is being made would, in the event of a federal audit, result in a disallowance of Federal Title XX money. The Department adds that local social services agencies have, for some time, been required to amend their plan if they intend to exclude any such service. After thorough consideration, the Hearing Examiner believes that the Department is correct and finds the proposed amedment to section C.1.b. to be reasonable and necessary. It is the further opinion of the Hearing Examiner that any refusal by a local social services agency to continue to provide a priority or optional service under its annual local services plan to an individual who has demonstrated continued need for that service would be actionable, as a breach of contract, unless that service has been properly "amended out" of the local social services plan.

17. At paragraph C.2., the Department has proposed substitution of the word "shall" for the word "must" and deleted "who need or request them" and added "provided need for such service is determined by the local services agency." The Hearing Examiner finds these changes reasonable and necessary in order to accomplish grammatical and word usage consistency with the rest of the Rule.

18. Additions of the words "including" in paragraph C.2.g. and "including MR guardianship and conservatorship services" in paragraph C.2.h., are found to be reasonable and necessary for clarity in the first instance and in the second instance in order to make it permissible for local social service agencies to claim federal financial participation in the cost of providing such services to children. For purposes of consistency, the Hearing Examiner suggests substitution of the words "mental retardation" for the initials "MR". complied p.6

19. The Department proposes to add "and adults." to the end of paragraph C.2.i.(2) because 12 MCAR § 2.185 (DPW Rule 185) requires the development of a service plan for all mentally retarded persons. The Hearing Examiner finds this proposed amendment to be reasonable and necessary.

20. The Hearing Examiner finds the editorial changes proposed for section C.3. to be reasonable and necessary, in order to remove the ambiguity raised by usage of the word "significantly."

21. The proposed amendments to sections C.3.h., j.(2), j.(3). and k., are found by the Hearing Examiner to be necessary and reasonable. These include the addition of money management services and residential treatment for individuals who are mentally ill as priority services and make changes in grammar and numbering to clarify the meaning of the Section listing priority services.

22. The Hearing Examiner finds the editorial changes proposed for Section C.4. to be necessary and reasonable to improve the clarity of the paragraph.

23. At the hearing, the Social Services Division of the Department of Public Welfare, in response to written comments received after publishing the Notice of Hearing, proposed two amendments, both of which are found by the Hearing Examiner to be necessary and reasonable. The first proposal is to add "to be made available by the county board of commissioners or human services board." at the end of paragraph A.6.p. This amendment results in definitional conformity with paragraphs A.6.q. and A.6.r. of the Rule.

The Department also proposes adding a second paragraph to Section E.3., which addition reads:

> "For deaf and hard of hearing individuals who rely on visual language reception as their primary mode of communication, the local agency shall have access to interpreting services (sign language) so that the applicant may receive the same quality of direct services as provided "hearing" clients."

The Hearing Examiner believes that it is more consistent as a matter of grammar to add this sentence to the end of the Section without creating a new paragraph. The amendment itself is a reasonable attempt to prevent discrimination against handicapped persons solely by reason of their handicap. The proposed amendments do not constitute a substantial departure from the amendments as originally published.

24. The Department proposes to add a new Section (E.7.) to 12 MCAR § 2.160, which Section spells out certain due process rights of applicants for and recipients of social services. The Department's panel emphasized at the hearing that there has been a lack of clarity about which local agency actions may be appealable, and this new section is designed to bring the Rule into full compliance with Federal Regulations (specifically 45 CFR § 228.14), and Minn. Stat. § 256.045. The Section also recites the most commonly found examples of appealable actions (based on Department experience) and provides a notice requirement. The Hearing Examiner finds addition of this Section to be necessary and reasonable.

45 CFR § 228.14 defers to 45 CFR § 205.10 for specific definition of notice requirements. In response to a suggestion raised at the hearing by Mr. Darryl Meyer, representing Todd County Social Services, the Department has endorsed an additional amendment to the proposed Section E.7.b. to provide for only five days' notice prior to the effective date of the proposed action (rather than ten) in the event that the agency obtains facts (preferably verified through collateral sources) indicating that a service should be discontinued, suspended, terminated, or reduced because of the possible fraud of the recipient. The Hearing Examiner was not presented with an actual proposed amendment adopting the suggestion in the final written comment of the Department received on June 26, 1980. He suggests that the clause ", mailed to the recipient at least ten days before the effective date of the action," be deleted from, and a sentence more specifically defining timely notice be added to the end of proposed paragraph E.7.b. The definition should be consistent with 45 CFR § 205.10 and state law.

This proposed amendment drew comments from Paul Arneson, representing Dakota County, the Hearing Examiner and others regarding its potential for greatly increasing the appeals load, resulting in a possible substantial increase

in the expenditures of public monies by local public bodies. Under Minn. Stat. § 15.0412, subd. 7 (1978), the Department must file an accompanying document to the notice of the proposed rule, estimating that cost, if such expenditures are estimated at more than $100,000 for either of the two years immediately following adoption of the Rule. The Department either failed to estimate that additional cost or estimated it to be less than $100,000 (which is unclear from the record), and no such statement was filed. There is no credible evidence to suggest that any additional costs to local public bodies will be greater than $100,000 if the amendment is promulgated. It is the opinion of the Hearing Examiner after much consideration of the issue that the promulgation of this Section will not greatly increase the costs to local public bodies due to the fact that the Section generally repeats already existing requirements. Theoretically, there should be no increase in costs to local public bodies because they have been providing for the process contemplated by the proposed Section E.7. already. However, it is the opinion of the Examiner that the very fact that the proposed amendment states that appeals are possible will cause some increased expenditures to local government bodies.

25. The Department proposes addition of the phrase "mutually agreed upon by the agency and the service recipient (or his representative)" to Section G.1. of the Rule in order to make clear the joint effort of the client and the agency in developing a plan for social services. This change is also consistent with the provisions of Sections G.2.a.-d. of the Rule. The Hearing Examiner finds that the proposed amendment is necessary and reasonable.

26. The Department proposes that the words "the client" be substituted for the word "him" in paragraph G.2.a. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

27. It has been the experience of the Department that the service provider is often identified in the client's social services plan, mandatory provisions of which are enumerated at Section G.2. of the Rule. Because of several situations which have come to the attention of the Department involving disputes between local social services agencies and clients regarding who will be providing a service, the Department recommends insertion of the phrase "the service provider;" in paragraph G.2.b. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

28. At paragraph H.2.d., the Department proposes deletion of the word "safeguarded" (which is ambiguous) at the end of the sentence and addition of the phrase "collected, used, stored and disseminated only in accordance with state and federal law." in its place. The Hearing Examiner finds this amendment, which states legal guidelines for protection of the subject information, to be necessary and reasonable.

29. The Department proposes addition of the phrase "duration of" after "to" and before "residence" in paragraph H.2.e. in order to clarify the meaning of the paragraph and bring it into conformity with 45 CFR § 228.11. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

30. The Department recommends deletion of Section H.3. of the Rule in light of the enactment of Minn. Stat. § 256E.07, which establishes a formula for the apportionment of Federal social service funds among the counties, thus rendering the Section null and void. The Hearing Examiner finds this deletion

to be necessary and reasonable, along with the attendant re-numbering of paragraphs 4 through 11 of Section H. (to H.3.-H.10).

31. The Department's proposal for deletion of paragraph H.5.b.(4)(h) (as proposed to be renumbered) has prompted concern from the public that removal of the paragraph may cause the loss of some federal funds. The funds being referred to are to be available without regard to income when the agency believes that a child is subject to, or at the risk of, abuse, neglect or exploitation. To use these funds without regard to income, the agency is required to document those circumstances. The Department is of the opinion that, when a court has intervened on behalf of a child, it is reasonable to believe that the child's "at risk" status has been removed. Federal financial participation is still available if it can be justified based on income guidelines. In effect, the Department believes income should be a factor in such cases. The Hearing Examiner is persuaded that it is reasonable and necessary to delete paragraph H.5.b.(4)(h) from the current Rule in order to guard against improper claims for Federal financial participation.

32. Two minor, clarifying changes are proposed for the renumbered Section H.7. (formerly H.8.). The Hearing Examiner finds that the proposed additions of the language "under age 18" in H.7.a.(2) and "determining Title XX eligibility" in H.7.c.(4) are necessary and reasonable.

33. In sentence two of paragraph H.9.c.(2) (as renumbered), the Department proposes insertion of the word "upon" between "agreed" and "and" in order to make the sentence grammatically correct and improve its clarity. The Hearing Examiner finds this proposed amendment to be necessary and reasonable.

34. Regarding paragraph H.10.c.(1) (as renumbered), the Department proposes an addition at the end of the paragraph which represents a significant amendment to the current rule on host county contracting. The Department believes that local social service agencies should have more latitude in refusing, for good cause, to develop a host county contract. This amendment gives recognition to the possibility that even though a vendor is approved (i.e., meeting minimum licensing standards), it is not necessarily in the best interests of the local social services agency requesting a host county contract, or of the social service recipient for whom the contract is being requested, for a contract to be written with certain purchase of service agencies. This amendment also gives recognition to the fact that the host county is in the best position to make such decisions. Good cause refusals to develop a host county contract are limited by this amendment to cases of failure by a vendor to comply with the conditions of past or present contracts or instances where previous contracts have had to be terminated because of failure of the vendor to provide adequate service. The Hearing Examiner finds that it is reasonable and necessary to make this amendment in order to give local social service agencies more decision-making authority in the host county contracting process. The public comment upon this particular change has generally been favorable. The letter submitted to the Hearing Examiner on June 27, 1980 by Michael W. Weber of Hennepin County suggests further additions to the proposed amendment, which the Commissioner may wish to consider.

no additional changes p. 21

35. The final amendment proposed is to Section H.10.c.(5)(b) (as renumbered). The words "Area Mental Health Board" and "Area" are struck from the sentence and replaced by "A community mental health board authorized by M.S.

245.61-245.69". The Hearing Examiner finds this proposed amendment to be needed and reasonable, but, as in Finding of Fact No. 14, suggests that the amendment read "A community mental health board authorized by Minn. Stat.§§ 245.61-.69" for the purpose of proper citation complied p.22

CONCLUSIONS

1. Due, timely and legally adequate notice of the hearing was properly served and published by the Department.

2. The Department has demonstrated its statutory authority to adopt the proposed rule amendments.

3. The Department has demonstrated the need for and reasonableness of the proposed rule amendments by an affirmative presentation of facts.

4. The additions to the proposed rule amendments which were proposed after publication of the amendments in the State Register do not constitute a substantial change.

RECOMMENDATION

The Hearing Examiner recommends that the proposed amendments to the Rules governing the administration of public social services be adopted by the Commissioner of Public Welfare in accordance with the Findings of Fact herein, with due consideration to the suggestions noted in Findings of Fact Nos. 14, 18, 23, 24, and 35.

Dated this 28th day of July, 1980.

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner

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

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

Office Memorandum

TO : Alan Held

DATE: August 5, 1980

FROM : Phil Peterson

PHONE: 6-3978

SUBJECT: Affidavits of Completeness of Notice of Hearing

Attached to this memo are affidavits from Lou Brelje and Robert Hamper attesting to the completeness of the Notice of Hearing mailed to those persons and organizations on the Secretary of State's list.

These affidavits are, as you know, being provided because of the defective Notice copied for the Rule Hearing on June 17, 1980. Unfortunately, both you and Hearing Examiner, Richard Luis, took a copy of this defective document, and one copy was submitted to Mr. Luis as an exhibit by the Department.

I am not sure how to address this issue in our letter to the State Attorney General. Because this does involve a remote but possible legal issue, I'd feel more comfortable if you would deal with the wording in this issue.

PP/ljb

Attachments

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

AFFIDAVIT OF LOU BRELJE

I, LOU BRELJE, BEING SWORN, SAYS:

I am employed by the Minnesota Department of Public Welfare, am classified as an Executive I, and work for the Service Administration Section, Division of Social Services.

One of my responsibilities was to send out at least one free copy of the proposed amendments to DPW Rule 160, to persons and organizations on the Secretary of State's mailing list requesting the same. My name, address and telephone number are identified on the back side of page one of the Notice of Hearing.

Based on this Notice of Hearing twenty individuals representing themselves or other organizations, requested a copy of the proposed amendments; my name, address and telephone number are identified only on the back of Page 1 of this Notice.

I also received those Notices of Hearing not delivered because of address changes; nine such Notices were returned. Attached is one such notice sent to the Minnesota Public Interest Research Group, but returned to me because of an address change. The rest of the envelopes of Notice of Hearing have been misplaced or destroyed.

Based on the requests for a copy of the proposed amendments and those Notices of Hearing returned to me, I can affirm that the Notice of Hearing mailed to those persons and organizations on the Secretary of State's mailing list, was complete.

Lou Brelje
Executive I
Service Administration Section

Subscribed and sworn to
before me this 31st day
of July, 1980

Dorothy M Petschauer

DOROTHY M. PETSCHAUER
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Nov. 15, 1983

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55155

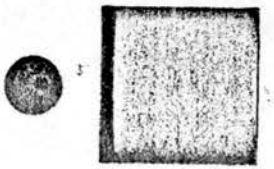


MIN 56 47100301 05/10/80

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

MN PUB INT RESEARCH GROUP
3036 UNIV AVE SE
MPLS MN
55414

AN EQUAL OPPORTUNITY EMPLOYER





STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

AFFIDAVIT OF ROBERT J. HAMPER

I, ROBERT J. HAMPER, BEING SWORN, SAYS:

I am employed by the Minnesota Department of Public Welfare, am classified as an Management Analyst Principle and work for Special Services Division, Bureau of Support Services.

One of my responsibilities is to make certain that the Secretary of State's list is obtained from the Office of the Secretary of State and that Notices of Hearing are mailed to all person or organizations on the Secretary of State's list.

The Secretary of State's list was obtained for Rule 160 and the attached Notice of Hearing was mailed to all persons on the list. The Notices that were mailed out on Rule 160 were machine folded by the State Printer's equipment. The attached Notice is a left-over copy (machine folded) from the Rule 160 mailing.

Robert J. Hamper

Robert J. Hamper
Management Analyst Principle
Special Services Division

Subscribed and sworn to
before me this 1 day
of August, 1980

Margaret Holt

DPW Ex. 2

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

NOTICE OF HEARING

A public hearing concerning the proposed amendments to 12 MCAR 2.160 will be held at Room D, Veterans Service Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, on Tuesday, June 17, 1980, commencing at 9:00 a.m. The proposed amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. 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 to Richard C. Luis, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, Room 300, St. Paul, MN 55104 (612)296-8114, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hearby 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 and amended rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

12 MCAR 2.160 (DPW Rule 160) governs the administration of publicly funded social services provided directly or purchased by county boards of commissioners and human services boards in Minnesota. Generally, the proposed amendments seek to improve the clarity of the rule, to correct statements which in the past have caused confusion, to give local social service agencies more latitude in the host county contracting policy, and to bring the rule into further compliance with Title XX of the Social Security Act. Major proposed changes includes:

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.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, (1979 Supp.) 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, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: April 24, 1980

Arthur E. Noot
Commissioner of Public Welfare

EM/baj

RL

RECEIVED
MAY 12 1980
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

NOTICE OF HEARING

A public hearing concerning the proposed amendments to 12 MCAR 2.160 will be held at Room D, Veterans Service Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, on Tuesday, June 17, 1980, commencing at 9:00 a.m. The proposed amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. 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 to Richard C. Luis, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, Room 300, St. Paul, MN 55104 (612)296-8114, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hearby 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 and amended rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

12 MCAR 2.160 (DPW Rule 160) governs the administration of publicly funded social services provided directly or purchased by county boards of commissioners and human services boards in Minnesota. Generally, the proposed amendments seek to improve the clarity of the rule, to correct statements which in the past have caused confusion, to give local social service agencies more latitude in the host county contracting policy, and to bring the rule into further compliance with Title XX of the Social Security Act. Major proposed changes includes:

-- designation of county boards of commissioners (rather than county welfare boards) as the authority to administer, plan, and fund community social service programs;

-- addition of MR guardianship and conservatorship services as a component of child protection services, thereby making these services eligible for federal funds;

-- inclusion of the provision of residential treatment services for adults who are mentally retarded as a mandatory service;

-- addition of the service of money management to the list of priority services;

-- addition of residential treatment for the mentally ill as a priority service;

-- addition of clarification of the right to a fair hearing for applicants and recipients of social services;

-- elimination of the distribution of federal social service funds on the basis of a formula developed by the commissioner of public welfare;

-- elimination of court ordered social services as services which can be provided to children and paid for with Title XX funds without regard to income;

-- addition of a sub-paragraph to the host county contracting policy, to give the local social services more latitude in refusing to write, for good cause, a host county contract.

Also, several proposed changes are included to improve the clarity of a sentence or phrase; these additions, deletions, or word substitutions do not change the meaning or intent of the respective portions of the rule.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. §§ 256.01, subd. 2(1), 256.011 and 393.07 (1978).

The agency estimates that there will be no cost to local public bodies in the state to implement the amendments for the two years immediately following their adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Lou Brelje, Social Services Division, Department of Public Welfare, Centennial Building, St. Paul, MN 55155, telephone (612) 296-2725. Additional copies will be available at the hearing. If you have any questions on the content of the proposed amendments contact J. Philip Peterson, (612) 296-3970.

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.

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(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, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: April 24, 1980

Arthur E. Noot
Commissioner of Public Welfare

EM/baj

ADMIN 1000 (Rev. 1/78) STATE OF MINNESOTA

DEPARTMENT OFFICE OF ADMINISTRATIVE HEARINGS **Office Memorandum**

TO : ALAN HELD
Special Assistant Attorney General

DATE: 10-7-80

FROM : DUANE R. HARVES
Chief Hearing Examiner

PHONE: 6-8100

SUBJECT: In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to 12 MCAR 2.160 (DPW Rule 160) Governing the Administration of Public Social Services.
HE Docket No. DPW-80-035-RL

Enclosed is the original Order of the Chief Hearing Examiner in the above-entitled matter. The Office of Adminitrative Hearings has retained the copies of the Commissioner's Order Adopting the Rule, Rule as Proposed, and Rule as Adopted received from you today. During the course of our review, the Hearing Examiner pointed out the following typographical errors in the Rule as Adopted:

(1) Section C.2.i.(2) The dash (-) preceding the words "and adults" should be stricken. complied p. 6

(2) Section G.1. The dash in the word "representative" should be stricken. complied p. 11

(3) Section H.8.b. The slash (/) between the words "commissioners" and "human" should be re-inserted. complied p. 12

These corrections, if made prior to publication in the State Register, would not constitute a substantial change in the Rule.

DRH/eag

RECEIVED

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Eileen A. Gaiovnik, being first duly sworn, deposes and says that on the 7th day of October, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Order of the Chief Hearing Examiner, DPW-80-035-RL

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on all persons at the addresses shown on the attached mailing list.

Eileen A. Gaiovnik

Subscribed and sworn to before me this
7th day of October, 1980.

Susan C. Wojcik

SUSAN C. WOJCIK
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1986

Mr. Alan Held
Special Assistant Attorney General
515 Transportation Building
St. Paul, Minnesota - 55155

Commissoner of Public Welfare
4th Floor, Centennial Office Building
St. Paul, Minnesota - 55155

DPW-80-035-RL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF PUBLIC WELFARE
SOCIAL SERVICES DIVISION

In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to 12 MCAR 2.160 (DPW Rule 160) Governing the Administration of Public Social Services.

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on June 17, 1980 before Richard C. Luis, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Public Welfare and;

WHEREAS, the Department has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department 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 Department has met all requirements of Minn. Stat. § 15.0412, subd. 4.

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

Dated this 7th day of October, 1980

DUANE R. HARVES
Chief Hearing Examiner

DPW Ex. 10

Rule as Proposed

Proposed additional amendment to A.6.p. of Rule 160:

At the end of this sentence add:
"to be made available by the county board of commissioners or human services board."

added 7.3.

SPW Ex. 11

Add to E.3 ~~New Paragraph #2~~

•For deaf and hard of hearing individual who rely on visual language reception as their primary mode of communication, the local social services agency shall have access to interpreting services (sign language) so that the applicant may receive the same quality of direct services as provided to "hearing" clients.

added p. 9

PROPOSED AMENDMENT(S) TO RULE 12 MCAR 2.160 - Administration of Minnesota Public Social Services

A. Introduction

1. This rule governs the administration of publicly funded social services in Minnesota as identified in A.6.t. of this rule. The authority for the administration of social services is found in Minnesota Statutes, Chapter 256, and other applicable state laws. Authority is also found in Public Law 93-647, as implemented by Title 45 of the Code of Federal Regulations, Part 228. The delivery of public social services in Minnesota is state supervised and locally administered. The authority for this method of delivery is given in Minnesota Statutes, Chapters 256E, 393 and 402.

2. The Commissioner of Public Welfare may issue bulletins and manual material to local social service agencies and other service providers to clarify the provisions of this rule and may prescribe forms to be used in the administration of social services.

3. Social services shall be administered in a manner to ensure the individual and civil rights of applicants and clients. Information regarding individuals shall not be disclosed, except as provided under applicable state law and/or official departmental rules and regulations.

4. This rule is binding on all county ~~welfare~~ boards of commissioners and human services boards and their respective agencies (hereinafter referred

to as local social services agencies) in the State of Minnesota administering and providing social services, the state agency or other service providers under contract to local social services agencies or the state agency and applicants and clients of social services.

5. Sections A through G of this rule apply to county ~~welfare~~ boards of commissioners and those human service boards which assume the responsibility for social services that would be provided by county ~~welfare~~ boards of commissioners. Section H applies to social services funded through Title XX of the Social Security Act of 1935, as amended.

6. Definitions

a. Applicant means an individual who has directly, or through someone acting in his behalf, made application for social services.

b. Application means a request for social services on forms prescribed by the state agency. The application shall contain sufficient information about the applicant to enable the local social services agency to make an eligibility decision. As part of the application process, the applicant shall be informed of his rights and responsibilities as outlined by the state agency.

c. Approved vendor means providers of social services which are licensed, approved as meeting state licensing standards, or where licensing is not required, meet standards or criteria established by the state agency or local social services agency.

d. Categories of individuals means grouping of persons on the basis of common characteristics such as recipient status (Aid to Families with Dependent Children, Supplemental Security Income, Minnesota Supplemental Aid), income level, age and physical or mental condition.

e. Comprehensive Annual Services Program Plan (CASP Plan) means 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.

f. Declaration method means acceptance of an individual's statements regarding the source and amount of his household monthly gross income, and the income maintenance status of any member of the household.

g. Documentation means written evidence, in addition to signed application and income declaration forms, of income maintenance status or household monthly gross income.

h. Federal financial participation (FFP) means federal monies available through Title XX of the Social Security Act to be used in payment for social services.

i. Fees means monies billed and/or collected for the services provided.

j. Geographic area means locally identified political subdivision of the state covered by a social services plan.

k. Gross income means income, prior to any deductions, received from wages or salary; net income from self-employment; net farm income; Social Security payments; dividends, interest, rent received, or royalties; General Assistance payments; pensions and annuities; unemployment compensation; worker's compensation; alimony; child support; veteran's pensions; or any combination of the above sources of income.

l. Host county contract means contractual agreement between a purchase of service vendor and the local social services agency (the host county) where the vendor is located. All other social services agencies wishing to purchase from the vendor are bound by the terms of the host county contract.

m. Income eligible client means an individual needing and receiving social services whose income level is the basis for allowing the agency to claim federal financial participation under Title XX.

n. Income maintenance status means an individual whose eligibility for Title XX federal financial participation in services received is based on his receipt of Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or Minnesota Supplemental Aid (MSA).

o. Local social services agency (also known as local agency) means local agency under the authority of the county ~~welfare~~ board of commissioners or human services board which is responsible for social services.

p. Mandatory services means services required ~~in~~ by agency rule, state law or federal regulation.

q. Optional services means services available at the discretion of the county ~~welfare~~ board of commissioners or human service board.

r. Priority services means services the state agency strongly recommends be made available by the local social services agencies, but which are available at the discretion of the county ~~welfare~~ board of commissioners or human services board.

s. Provider means agency or individual delivering services.

t. Social services means those services which are included in the Minnesota Comprehensive Annual Services Program Plan. Such services include, but are not limited to: adoption, chore, counseling, developmental achievement for adults and children, day care for adults and children, educational assistance, employability, family planning, foster

care for adults and children, health, home delivered and congregate meals, homemaking, housing, information and referral, legal, money management, protection for adults and children, residential treatment, social and recreational, and transportation. Social services do not include income maintenance programs, mental health center programs established pursuant to Minn. Stat. 245.61-69, health department programs or CETA programs unless there happens to exist a Title XX purchase of service contract between the county board of commissioners ~~welfare department~~ and those other programs.

u. Source document means a written statement such as a paycheck stub or birth certificate used to verify income, age, etc.

v. State Administrative Plan means a federal approved statewide plan for the administration of the Title XX Program. The State Administrative Plan establishes the requirements in Section H. 2. of this rule.

w. State agency means Minnesota Department of Public Welfare.

x. Vendor means agency or individual from whom services are purchased.

B. State and local social services planning

1. The Comprehensive Annual Services Program Plan year shall be October 1 through September 30.

2. On or before a date stipulated by the state agency, each local social services agency shall submit to the state agency a plan for service delivery and a budget to support that plan. The plan and budget shall be in accordance with the Local Social Services Plan Guidelines and budget forms prescribed by the state agency.

3. The political entity covered by a local social services plan shall be known as the geographic area. The following criteria shall be followed in establishing geographic areas:

a. A county may designate itself as a geographic area.

b. No political subdivision smaller than a county shall be designated as a geographic area.

c. A political subdivision larger than one county may be designated a geographic area if one of the following conditions is met:

(1) Counties have combined for administrative purposes under a joint powers agreement, executed pursuant to Minn. Stat. 393.01, Subd. 7.

(2) Counties have combined under provision of the Human Services Act, or

(3) Contiguous counties within the same Governor's Economic Region or two or more regions have elected by board action to submit a multicounty plan that provides the same services to the same eligibility groups in all counties in that geographic area.

(4) There is a state contract for a service, and that service is available statewide.

4. Services provided may differ among geographic areas, except for mandatory services, which must be available on a statewide basis.

5. Priority and optional services included in geographic area plans shall be available to all persons in eligible categories specified in the plan.

6. On or before July 1 of each year, the state agency shall publish a proposed Comprehensive Annual Services Program Plan for the delivery of public social services. A copy of the proposed plan shall be available from the state or local social services agencies at no cost to any individual on request.

a. There shall be a 45-day period, beginning July 1, for public review and comment on the proposed plan.

b. Public meetings may be held throughout the state to answer questions and receive public comment on the proposed annual plan.

7. On or before October 1 of each year, the state agency shall publish the final Comprehensive Annual Services Program Plan. On request, a copy of the final plan shall be available from the state or local social services agencies at no cost to any individual ~~on request~~.

8. The Comprehensive Annual Services Program Plan may be amended by the state agency on its own initiative or at the request of a local social services agency with state agency approval.

a. The proposed amendment shall be published in all geographic areas affected by the amendment, and there shall be a 30-day public review and comment period on the proposed amendment.

b. The final amendment shall be published in all geographic areas affected by the amendment and shall not be effective earlier than the date of publication.

C. Local agency duties and responsibilities

1. The local social services agency shall provide social services as required by law and the local social services plan. These services may be provided directly by the agency, purchased, or arranged for at no cost to the local social services agency.

a. Mandatory services shall be provided in accordance with the individual service plan to all persons who need them as determined by the local social services agency.

b. Priority and optional services shall be provided to persons requesting them if a need for them is determined by the local social services agency in accordance with the individual service plan. The local social services agency's obligation to provide priority and optional services ~~is limited to~~ need not exceed the cost estimate for each service specified in the annual local social services plan provided, however, such services shall continue to be provided until the local social services agency formally amends the local social services plan to exclude the service(s).

2. The following services or components of services are mandatory under federal or state law and ~~must~~ shall be provided by the local social services agency to all persons in each geographic area ~~who need or request them,~~ provided need for such service is determined by the local social services agency.

a. Adoptive services

(1) Adoptive home studies on court referred adoption petitions.

(2) Adoptive home studies for applicants wishing to adopt minority or handicapped children.

(3) Placement and follow-up for all children placed under agency auspices.

b. Developmental achievement services.

c. Day care services - ~~(1)~~ For children receiving Aid to Families with Dependent Children (AFDC) whose parents are employed or in training for employment.

d. Family planning services - ~~(1)~~ Education or counseling for individuals receiving Aid to Families with Dependent Children.

e. Foster care services for children.

f. Health related services required under the Minnesota Hospitalization and Commitment Act - ~~(1)~~ For individuals needing institutional treatment; community alternatives to institutional care for mental illness, chemical dependency or mental retardation; and management of individualized service plans on release from state institutions.

g. Protective services for adults - ~~(1)~~ <u>including</u> Mental retardation guardianship and conservatorship services.

h. Protective services for children - <u>including MR guardianship and conservatorship services.</u>

i. Residential Treatment Services

(1) For emotionally disturbed children in licensed residential treatment centers or group homes.

(2) For mentally retarded children~~,~~ and adults.

j. Employability services - ~~(1)~~ For individuals receiving Aid to Families with Dependent Children.

3. The following services, or components of services, are priority services, not made mandatory by federal or state law, but which have been ~~significantly~~ funded by the state in the past or which have been ~~significantly delivered~~ provided in the past. That is, priority services are based upon historical practice. Priority services are available at the discretion of the county board of commissioners or human services board. The state agency strongly recommends these services be made available by local social services agencies.

a. Chore services - ~~(1)~~ For individuals receiving Supplemental Security Income.

b. Day care services for children - ~~(1)~~ For children of working parents in income eligible categories.

c. Family planning services

(1) Education or counseling for individuals in the income eligible categories.

(2) Health related services and supplies for individuals in the income eligible categories.

d. Health related services - ~~(1)~~ Other than those required by the Minnesota Hospitalization and Commitment Act as defined in the Comprehensive Annual Services Program Plan.

e. Home delivery and congregate meals

(1) For individuals receiving Supplemental Security Income.

(2) For individuals who are in the income eligible categories.

f. Homemaking services including, but not limited to, attendant care.

(1) For all adults.

(2) For children during the temporary absence of the parent responsible for their care.

g. Information and referral services

h. Money management services

i. Protective Services for Adults - ~~(1)~~ Other than subacute detoxification services and mental retardation guardianship services.

j. Residential Treatment Services

(1) Primary treatment for individuals who are chemically dependent.

(2) Residential treatment for individuals who are mentally ill.

~~(2)~~(3)Halfway house for individuals who are chemically dependent ~~and~~ or mentally ill.

k. Transportation services - ~~(1)~~ For individuals receiving Supplemental Security Income.

1. Employability services

(1) For Supplemental Security Income-Minnesota Supplemental Aid recipients.

(2) For low-income persons who are income eligible.

4. The following services, or components of services, shall be made available at the option of the local social services agency. These optional services ~~are-nonmandatory-services-which~~ have past records of delivery or state funding that have not been as significant as the ~~records~~ provision of priority services found in ~~subparagraph-3-of-this-section-C.~~ section C.3. of this rule.

a. Day care for children - ~~(1)~~ For families on a fee basis who are not in the income eligible categories.

b. Day care for adults

c. Education assistance

d. Foster care for adults

e. Home delivered and congregate meals

(1) For individuals receiving Aid to Families with Dependent Children.

(2) For individuals on a fee basis who are not in the income eligible categories.

f. Housing services

g. Legal services

h. Social and recreational services

i. Transportation services - other than Supplemental Security Income.

j. Counseling services for families and individuals

D. Client information for social services

1. Information gathered on clients shall be used for the provision of services and the management of the program and shall be limited to the information necessary for these purposes.

2. Clients shall be informed that information on them is collected, used, stored and disseminated.

3. Information regarding clients shall be collected, used, stored, and disseminated only in accordance with state and federal law.

4. Officials directly related to the provision of service and administration of the program shall have access to client information. These officials may include those of the agency to which the client applies, those of the agency providing service, federal and state auditors, evaluators, and researchers with the authorization of the Commissioner of Public Welfare.

E. Application

1. Each individual wishing to apply for social services shall be given the opportunity to do so without delay.

a. Applications shall not be required for information and referral services.

b. At local agency option, applications may be required for determining group eligibility. However, whether or not applications are required, the local social services agency shall obtain sufficient information to document the basis for the group eligibility decision. EXCEPTION: Clients requesting family planning services, whether based on group eligibility or individual eligibility, shall make written application in order to document that the request is voluntary.

2. Except as provided for in E. 1. above, each application shall be completed, signed, and dated by the applicant or by a responsible individual acting on behalf of the applicant on an application form prescribed by the state agency. If for reason of age, incompetence, noncooperation or any other valid reason the applicant cannot sign the application, the following may sign in descending order of priority:

a. Legal guardian of the applicant.

b. Relative of the applicant.

c. Friend of the applicant.

d. Agency representative.

3. Before an applicant's signature is requested on any forms, each applicant shall be given a complete and comprehensive written statement of his rights and responsibilities on the form prescribed by the state agency. For those individuals who cannot make use of/or understand the written statement for any reason, the agency representative shall read out loud or interpret (if foreign language interpreting capability is available) and explain the written statement to the individual or to a responsible person acting on behalf of the individual. The agency representative also shall respond to any questions the applicant or his representative may have.

4. Each applicant or his representative shall declare his income on a form prescribed by the state agency, and shall sign and date the form. This form need not be completed if:

a. The applicant will only receive services without regard to income; or

b. The agency does not intend to claim Title XX federal financial participation (FFP) for the services to be provided; or

c. The applicant will only receive services on the basis of group eligibility.

5. The agency shall act promptly on the application. The agency shall not take longer than 30 days to make an eligibility decision and the agency shall not take longer than 15 days after the eligibility decision to notify the applicant in writing that his application has been approved or denied. The notification date and reason for denial or approval shall be entered in the case record. If the application is denied, the individual shall be notified in writing of the reason for denial and of his right to appeal to the state agency.

6. If application is approved, the local social services agency shall provide the social services with reasonable promptness. Reasonable promptness means:

a. Within 15 calendar days after the applicant has been notified of his eligibility; or

b. At an appropriate later date which has been mutually agreed upon by the local social services agency and the applicant.

7. Applicants for and recipients of social services shall have the right to a fair hearing to appeal any denial, reduction, or termination of a service, or failure of the local social services agency to act upon a request for service with reasonable promptness.

a. The following are examples of appealable actions:

1. Failure to act upon on application within the prescribed time limits;

2. Reduction of quality or quantity of social services;

3. Denial of a request for a specific social service;

4. Termination of social services;

5. Disagreement with the social services plan developed between the recipient and the agency. An appeal shall also be authorized relative to any matter which is appealable based on state law or rule or federal law or regulation as they currently exist, or as they may exist based on subsequent amendments.

b. The local social services agency shall give the social services recipient timely, advance notice of any proposed agency action which may adversely affect the recipient. This notice shall be in writing, ~~mailed to the recipient at least ten days before the effective date of the action~~, and shall inform the recipient of the right to appeal the action the right to be represented by an attorney or other interested party at the hearing, and the conditions under which social services may be continued. Furthermore, the letter shall cite the specific Rule ~~or social services manual policy~~ upon which the reduction or termination of services is based.

See p. 11. HE 244 + Order Adopting

F. Client's right to accept or reject services

The applicant, if legally competent, shall have free choice to accept or reject an agency assessment of a need for social services or an offer of social services. A refusal to accept social services shall not affect payment of financial assistance under income maintenance programs except in the Work Incentive Program. The local social services agency is not relieved of its statutory responsibility to provide protective services by the refusal of such services by any person who needs such services or acts on behalf of anyone who needs social services. In these instances when a statutorily required service is rejected, the person or his caretaker or guardian shall be given a clear explanation of the possible consequences of that choice.

G. Client social services plan

1. Whether services are provided directly by the local social services agency or through a contract with another provider, there shall be a plan mutually agreed upon by the agency and the service recipient (or his representative) for the provision of services for each family or individual receiving services.

2. The client social services plan shall:

a. Be developed with the person receiving service. If the client is unable to participate in developing the plan, the plan shall be developed with the person responsible for ~~him~~ the client.

b. Identify the needs for service (reasons for agency involvement); the specific services to be provided; the service provider; and the objectives to be achieved.

c. Specify the frequency (weekly, every other week, monthly, etc.) and purpose of contacts between worker and client.

d. State the anticipated time necessary to accomplish the identified objectives.

e. Specify mutually agreed upon times for review of the plan, to assess progress and revise, as necessary. The plan shall be reviewed at least annually.

H. Title XX of the Social Security Act

1. Goals: Federal financial participation under Title XX of the Social Security Act shall be available to the extent federal funds are allotted for eligible individuals and services which are specified in the local social services plan. Social services shall be provided to achieve the following goals:

a. Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

b. Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

c. Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests;

d. Preserving, rehabilitating, or reuniting families;

e. Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or

f. Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

2. State administrative plan requirements:

a. The Minnesota Department of Public Welfare shall be the designated state agency for Title XX.

b. State and local funds shall be included in meeting the cost of the program.

c. Personnel administration shall be governed by rules of the State Merit System or respective county civil service system.

d. The use and disclosure of information on applicants and clients shall be ~~safeguarded~~ collected, used, stored and disseminated only in accordance with state and federal law.

e. There shall be no requirements as to duration of residence or citizenship in respect to eligibility for Title XX federal financial participation in costs of services provided.

f. Standards for institutions and foster homes shall be established by state licensing rules.

g. Standards for child day care services shall be established by state licensing rules.

h. A system of fair hearings shall be established under which an applicant may appeal denial, reduction, or termination of service.

i. The State Administrative Plan shall be amended when necessary.

j. Amendments to the State Administrative Plan shall be submitted to the Department of Health, Education, and Welfare by the State Department of Public Welfare.

k. Records shall be maintained and reports made to the federal agency as required by federal regulations.

l. The aggregate state expenditures for social services shall not be reduced below the aggregate expenditures for the fiscal year ending June 30, 1973.

~~3.--Federal-social-service-funds-shall-be-apportioned-to-the-local social-services-agencies-on-the-basis-of-a-formula-developed-by-the-Commissioner of-Public-Welfare.~~

~~4.~~3. Eligible categories: Title XX shall be available for all mandatory, priority and optional services provided to eligible categories of individuals and families, when these services and categories are included in the local social services plan. Eligible categories of individuals are as follows:

a. Income maintenance eligible categories:

(1) Current recipients of Aid to Families with Dependent Children (AFDC).

(2) All individuals, not in the Aid to Families with Dependent Children grant, including stepfathers, but excluding foster parents, who are adult caretakers of children receiving Aid to Families with Dependent Children.

(3) Recipients of Supplemental Security Income (SSI) or Minnesota Supplemental Aid (MSA).

b. Income eligible categories:

(1) Individuals and families eligible without a fee.

(2) Individuals and families eligible with a fee.

(3) Individuals and families whose eligibility is determined on a group basis as specified in Section H. 5. of this rule.

c. Eligible without regard to income:

(1) Individuals receiving information and referral services.

(2) Individuals receiving services directed toward the goal of protection as specified in Section H. ~~6.~~ 5. of this rule. (For cross-reference, see 45 CFR 228.65.)

(3) Minors who voluntarily request family planning services as specified in Section H. ~~7.~~ 6. of this rule.

~~5.~~4. Group eligibility - ~~a.~~ With state agency approval, local social services agencies have the option to include in the geographic area plan group determination of eligibility for social services as provided in and subject to federal regulations for Title XX.

~~6.~~ 5. Services directed toward the goal of preventing or remedying neglect, abuse, or exploitation without regard to income

a. Adults

(1) Title XX funds shall be available for services provided to adults who are unable to protect their own interests because of the actions or inactions of themselves or others which may result in injury, neglect, maltreatment, or exploitation. These adults shall include, but not be limited to, battered women.

(2) The local social services agency shall document by entering into the case record for each adult the circumstances which lead the agency to believe the adult is subject to or in risk of being abused, neglected or exploited. A social services plan shall be developed that is directed toward protecting the adult or assisting the adult in protecting his interests.

(3) No later than six months after the case has been opened, and every six months thereafter while the case remains open, the local social services agency shall reevaluate and document the continued need for services for preventing or remedying neglect, abuse, or exploitation of the adult. The appropriateness of the social services plan shall be reassessed at the same time.

(4) Federal financial participation shall be available without regard to income for the following services and activities for adults in need of protection:

(a) Identification of adults who are in need of protection.

(b) Provisions for the receipt and response to reports.

(c) Substantiation of the allegations.

(d) Counseling services with the adult or others responsible or interested in the adult's welfare when provided by the local social services agency.

(e) Assistance in arranging alternative living arrangements, medical care, legal services, and other services in the community.

(f) Assistance in arranging for guardianship, conservatorship, and commitment, or for providing advocacy, including legal services to assure the adult of rights and entitlements.

(g) Emergency homemaking services not to exceed 30 cumulative days in any 12-month period.

(h) Money management services.

(5) Eligibility for other social services in the Comprehensive Annual Services Program Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

b. Children

(1) Title XX funds shall be available to prevent or remedy child neglect, abuse or exploitation. Title XX funds shall also be available for runaways harmed or threatened with harm by virtue of their status as runaways.

(2) The local social services agency shall document by entering into the case record for each child, that the child is harmed or threatened with harm. Such harm shall be identified as nonaccidental physical or mental injury, sexual abuse as defined in Minn. Stat. 626.556, or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. Harm or threatened harm to a runaway shall also be documented.

(3) No later than six months after the case has been opened and every six months thereafter while the case remains open, the local social services agency shall reevaluate and document the continued need for services to prevent or remedy neglect, abuse or exploitation of a child. The appropriateness of the social services plan shall be reassessed at the same time.

(4) Federal financial participation shall be available without regard to income for the following services and activities for children in need of protection.

(a) Identification and social/medical diagnosis of such a child or condition.

(b) Provision for the receipt and response to reports.

(c) Substantiation of the allegations.

(d) Counseling services for families and individuals when provided by the local social services agency.

(e) Emergency shelter not to exceed 30 days in any six-month period which may be consecutive or may accumulate over more than one stay.

(f) Arranging for the provision of other services, when essential to the protection of the child.

(g) Legal representation or advocacy for the child.

~~(h)--Court-ordered-social-services-with-the-exception-of maintenance-and-medical-costs-which-are-not-integral-and-subordinate;-when the-court-absolves-the-family-from-making-any-payment-or-the-payment-established-by-the-court-does-not-meet-the-full-cost-of-the-services.~~

~~(i)~~(h)All appropriate social services in the Comprehensive Annual Services Program Plan which are necessary to protect runaways harmed or threatened with harm.

~~(j)~~(i)Emergency homemaking services not to exceed 30 cumulative days in any 12-month period.

~~(k)~~(j)Money management services.

(5) Eligibility for other social services in the Comprehensive Annual Services Program Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

~~7.~~6. Family planning services

a. Title XX federal financial participation shall be available for family planning services provided at the option of the local social services agency to minors (under age 18) who voluntarily request such services.

b. When a minor requests family planning services, he shall be informed that his parents need not be contacted in order for him to receive services. The local social services agency shall contact the minor's parents regarding his receipt of family planning services only with the written consent of the minor.

~~8.~~ 7. Household:

a. The following individuals living in the same domicile shall be considered a household for purposes of determining eligibility for Title XX funding:

(1) Spouses.

(2) Parents and their dependent children under age 18.

b. Household members (parents and their children under age 18) temporarily absent from the household in settings such as residential treatment, foster care, and school shall be considered members of the household.

c. The following individuals shall be considered a one-person household for purposes of determining eligibility for Title XX:

(1) An adult living alone.

(2) An adult living with individuals other than a spouse or dependent children.

(3) A child living with a relative other than a parent or legal guardian.

(4) An emancipated minor. For purposes of determining Title XX eligibility ~~this section,~~ an emancipated minor is an individual under the age of 18:

(a) Who has married; or

(b) Who is living apart from his parents and managing his own financial affairs; or

(c) Who is seeking one or more of the following Title XX services--family planning, health services, residential treatment for chemical dependency, or counseling related to pregnancy, venereal disease or chemical dependency--and has:

(i) Born a child; or

(ii) Wishes to determine the presence of or treat pregnancy, venereal disease, or chemical dependency.

(5) A child whose parental rights are terminated.

(6) A child living in adoptive placement prior to finalization of the adoption.

(7) A child who is not living with his parents or legal guardian and who is seeking confidential services (social services related to determining or treating pregnancy, venereal disease, alcohol and other drug abuse as provided for in Minnesota Statute 144.343).

(8) A minor child regardless of living arrangement who receives family planning services as specified in H. 7. of this rule.

(9) A child who is not living with his parents but whose parents are under a juvenile court order to contribute to his support as a result of a finding of dependency, neglect, or delinquency.

~~9.~~8. Determination of eligibility for Title XX federal financial participation

a. Different methods of determining eligibility for Title XX funds may be implemented for different services, categories of individuals, and geographic areas.

b. Through official county board of commissioners ~~welfare~~/human services board action, each geographic area shall establish methods of determining eligibility.

c. At a minimum, such method shall be the declaration method, with the exception that when a local social services agency has reason to believe a client is giving false information, the agency may then require the client to document the information.

d. When the documentation method is used:

(1) Federal financial participation shall be available only to meet the cost of services provided to clients whose income maintenance status or household monthly gross income has been documented.

(2) Adequate documentation shall include written evidence of income maintenance status or household monthly gross income in addition to the signed application and income declaration forms. This written evidence shall include either:

(a) A copy of a source document filed in the case record; or

(b) A written statement by the worker which specifies the content of the source document.

(3) Failure on the part of an applicant to cooperate in documenting income shall be acceptable grounds for delay beyond 30 days in processing an application or denial of eligibility for Title XX federal financial participation in services requested.

(4) Contact with other individuals or agencies shall be made only with the prior written permission of the applicant and shall be made only when there is no other way to document income.

(5) If an applicant declares that income is received as cash without a receipt, the local social services agency shall request the client to secure a receipt from the employer.

(6) If documentation cannot be obtained in any other manner, the local agency shall contact the employer, after gaining the written permission of the applicant. If a purchase of service contract permits the vendor to document eligibility and if contact with a third party is necessary, the vendor shall inform the applicant that the applicant has the right to have the local social services agency, rather than the vendor, make the contact.

e. Applicant declaration of household size shall be accepted without documenting evidence, unless there is reason to question the declaration, in which case birth certificates or other documentation is required.

f. Time period for determination of eligibility for Title XX federal financial participation:

(1) Income maintenance status shall be based on the month of application for services or the month prior to application for services.

(2) Household monthly gross income shall be based on either:

(a) Prospective monthly gross income for the month in which application for services is made; or

(b) An average monthly amount estimated over any six (6) consecutive month period in which the month of application is included.

g. An individual shall remain eligible for a maximum of six months from the date eligibility was initially determined. Eligibility may be redetermined at any time by the local social services agency.

EXCEPTION: Eligibility shall be redetermined annually for individuals whose household monthly gross income is derived exclusively from pensions, Social Security, or Supplemental Security Income, or a combination of these.

~~10.~~9. Social services fee

a. When Title XX federal financial participation is claimed for service provided to individuals and families who are income eligible without a fee, no social services fee shall be charged to the client.

b. When a local social services agency wishes to claim federal financial participation for services provided to individuals and households who are income eligible with a fee, a social services fee shall be charged according to the statewide fee schedule in the Comprehensive Annual Services Program Plan.

c. Local social services agencies shall make a reasonable effort to collect fees charged. Evidence of a reasonable effort shall exist if the local social services agency documents that at least 90% of the fees imposed have been collected. If this test cannot be documented, then a reasonable effort shall exist if the following conditions are met and documented:

(1) A bill is rendered or notice given to the client at the time of eligibility determination of the fee amounts and dates due; and

(2) At least three collection notices are given in person or by mail to the client, at approximately 30-day intervals; and a client's Title XX eligibility has been terminated if the fee remains delinquent after three collection notices have been given. A client's Title XX eligibility cannot be regained until a plan of payment has been agreed upon and implemented by the client and the agency.

d. The fee charged shall be the amount indicated on the appropriate fee schedule, in the Comprehensive Annual Services Program Plan, except that no fee shall exceed the actual cost of all the services in the service plan.

(1) Fees for residential services for emotionally disturbed, mentally retarded, and epileptic children shall be consistent with Minnesota cost of care laws and rules.

(2) When services are being provided in addition to residential services for emotionally disturbed, mentally retarded and epileptic children, two fees shall be computed and imposed, one for residential services and one for all other services received.

~~11.~~10. Purchase of service contracting

a. General provisions

(1) The local social services agency shall deliver social services subject to federal financial participation under Title XX by direct delivery, by purchase, or by arranging the services at no cost to the agency.

(2) As an alternative to providing such services directly and if not available without cost to the agency, the local social services agency may purchase services from public, nonprofit or proprietary agencies, or from individuals who have been designated as approved vendors.

(3) Services purchased with the intention of claiming federal financial participation must be listed in the Comprehensive Annual Services Program Plan.

(4) At the option of the local social services agency, these same policies and procedures may be utilized for purchased services not subject to federal financial participation.

b. Administrative requirements

(1) The local social services agency shall:

(a) Claim federal financial participation only for services purchased through a written contract. Every purchase of service contract shall be completed, signed and approved by the county ~~welfare~~ board of commissioners or human services board prior to the provision of services.

(b) Be responsible for client eligibility for purchased services; however, the local agency may make provision in the contract for the provider to make a determination of eligibility.

(c) Be responsible for the development of a client service plan based on the needs of the individual and the ability of the provider to meet those needs.

(d) Be responsible for monitoring purchased services and evaluating contract performance.

(e) Purchase only from approved vendors.

(2) Case record requirements for direct services shall apply to purchased services.

(3) The local social services agency shall maintain an administrative file for each contract which contains:

(a) A copy of the signed and completed contract.

(b) Copies of correspondence between the provider and the local agency.

(c) Evidence that the determination of reimbursement eligibility and authorization of approval of client social services plan have been made.

(d) Copies of monitoring and evaluation reports.

(e) Copies of correspondence between the local agency and the state agency related to the contract.

(f) Copies of fair hearings, complaints, grievances, and inquiries related to contract performance.

(g) Financial, statistical, and social services reports specified in the contract.

c. Host county contracting

(1) The local social services agency of the county in which an approved provider is located shall negotiate and administer host county purchase of service contracts on behalf of any other local social services agency wishing to purchase services, provided, however, that if a local social services agency (host county) does not want to comply with this provision because it is being required to administer (for another local social services agency) a host county purchase of service contract 1) with a provider who has not complied with the conditions of past or present contracts, or 2) with a provider whose previous contract with the host county was terminated for failure to provide adequate service, the host county local social services agency may refuse to enter into such a contract.

(2) All local social services agencies shall abide by the terms of the host county contract.

(3) The host county shall assume responsibility for monitoring and evaluation of the contract.

(4) The host county shall make available, on the request of other local social services agencies, copies of the host county contract.

(5) The following exceptions apply:

(a) The host county need not enter a contract unless there is at least one other local agency wishing to purchase from the provider; and

(b) Each local social services agency within the area served by a community mental health board authorized by M.S. 245.61-245.69 ~~an Area Mental Health Board~~ may contract directly with the ~~Area~~ board; however, if a local social services agency outside of the geographic area served by the ~~Area~~ board wishes to purchase services, the host county policy applies.

d. Technical assistance - ~~(1)~~ The local social services agency shall provide technical assistance and information to potential providers, draft contracts for purposes of negotiation, and assist providers in matters of record-keeping, statistical reporting, and determination of rates of payment.

DR/hfa

IN THE MATTER OF THE DEPARTMENT OF PUBLIC
WELFARE'S PROPOSED ADOPTION OF AMENDMENTS
TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING
THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

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 rule(s) have been submitted to the Attorney General's Office on October 24th, 1980 for review as to form and legality. Pursuant to Rule ATTYGEN 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 rule(s), you should direct your comments to the Attorney General's Office, G-25 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 J. Philip Peterson, Service Administration Section, Department of Public Welfare, Centennial Office Building, St. Paul, MN 55155, (612) 296-3970.

Linda M. Nelson

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

AFFIDAVIT OF MAILING

NOTICE OF SUBMITTAL TO THE ATTORNEY GENERAL

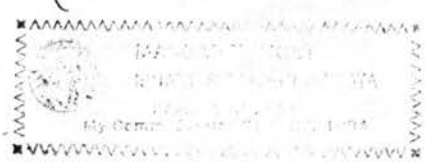
LINDA M. NELSON, being first duly sworn, deposes and says:

That on the 24th day of October, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons who had so requested to be notified.

Linda M. Nelson

Subscribed and sworn to before me this 24 day of October, 1980.

Margaret Holt



If you wish to be notified when the Hearing Examiner's Report is available, please put your name and address on one of the envelopes supplied.

RULE HEARING REGISTER

PLEASE PRINT CLEARLY

NAME	REPRESENTING	COMPLETE ADDRESS	TELEPHONE	CHECK HERE IF YOU WISH TO MAKE A STATEMENT AT THE HEARING	CHECK HERE IF YOU WISH TO BE NOTIFIED BY THE AGENCY WHEN THE HEARING RECORD HAS BEEN SUBMITTED TO THE ATTORNEY GENERAL
Darryl Meyer	Todd Co. Social Services	212-2nd Av. S. Long Prairie	732-6181	X	
Paul Arneson	Dakota County	Government Center - Hastings	437-0520	X	
Susan Covnicle	Hennepin Co.	Henn. Co. Govt Center	348-6603		X
Ellie Norberg	DPW	Centennial Office Bldg + Rm	296-4019		
Robert Carle	DPW	" " "	6-4085		
William J McDonald	Law Student	10986 Myeron Rd. Stillwater Mn 55082	733-5080		X
DEBORAH DUTTON	DPW (Day Services)	Centennial Office Bldg	296-3954		X
Judy Anderson	Anoka County	Courthouse, Anoka, MN	421-4760		X
Jerry Ferguson	DPW	Centennial Office Bldg.	296-5766		
Virginia Wilkins	Mn. Social Service Assn.	614 Portland Ave [illegible]	225-7871		X
PAT CARLSON	DPW	206 Lee Place Albert Lea MN 56007	507-373-1258		

DPW Exhibit 6

RECEIVED
MAY 16 1980
OFFICE OF HEARING EXAMINERS

Mr. Paul L. Groschen
Executive Director
Minnesota State Retirement System
529 Jackson Street
St. Paul, Minnesota 55101

All statements of information and comment must be received by October 8, 1979. Any written material received by this date will become part of the record of any rules hearing held on this subject.

September 24, 1979

Paul L. Groschen
Executive Director

Office of the Secretary of State

Election and Legislative Manual Division

Notice of Vacancy in Multi-Member Agency--Application and Appointment Procedures

Notice is hereby given to the public that a vacancy has occurred in a multi-member state agency, pursuant to Minn. Stat. § 15.1597, subd. 4. Application forms may be obtained at the Office of Secretary of State, 180 State Office Building, St. Paul, MN 55155; (612) 296-2805. **Application deadline is Tuesday, October 9, 1979.**

The Minnesota Great Lakes Commission has a vacancy open immediately for a public member for an indefinite term. The committee assists in the orderly, integrated and comprehensive development of water resources in the Great Lakes area. Members meet with representatives of other Great Lakes states to study matters dealing with water conservation, navigation, commerce, environmental quality, shoreline use, fisheries and wildlife. Meetings are held quarterly on weekdays. Members receive travel expenses and per diem. The governor is the appointing authority. For specific information contact Timothy Edman, (612) 224-5705.

The Medical Policy Directional Committee on Mental Health has a vacancy open immediately for a term to expire June 30, 1980. The member category is for a psychologist with research experience. The committee advises the Commissioner of Public Welfare on all phases of professional standards, including patient care, training of personnel, establishment of treatment programs, staffing, and records establishment to meet professional requirements in mental institutions of the state. The committee usually meets monthly on the first Friday of each month, 7:30 to 10:00 a.m. Members are reimbursed for expenses and receive $50 per diem. Appointing authority is the Commissioner of Public Welfare. For more information contact Dr. Young's office, Dept. of Public Welfare, Centennial Office Bldg., St. Paul, 55155; (612) 296-3058.

Department of Public Welfare

Social Services Division

Notice of Intent to Solicit Outside Opinion Concerning a Rule Amendment Relating to Minnesota Public Social Services

Notice is hereby given that the Minnesota Department of Public Welfare is considering editorial and policy changes in 12 MCAR § 2.160, Administration of Minnesota Public Social Services.

The Minnesota Department of Public Welfare is interested in soliciting comments on the adequacy of the present rule and suggestions for improvement.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

J. Philip Peterson
Service Administration Section
Department of Public Welfare
Centennial Office Building, Fourth Floor
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3970.

All statements of information and comment must be received by October 15, 1979. Any written material received by the Department shall become part of the hearing record.

Errata

Department of Public Welfare

1. At 4 S.R. 318 the effective date listed in the last sentence of the fourth and fifth paragraphs should be January 1, 1980, rather than January 1, 1979.

2. At 4 S.R. 334 the effective date listed in the last sentence of the first and second paragraph should be January 1, 1980, rather than January 1, 1979.

3. At 4 S.R. 343 the effective date listed in the last sentence of the third and fourth paragraph should be January 1, 1980, rather than January 1, 1979.

RECEIVED
MAY 16 1980
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rule be held at Room D, Veterans Service Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, on Tuesday, June 17, 1980, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

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

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

Wesley Restad
Deputy Commissioner

Dated: April 24, 1980

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED
ADOPTION OF AMENDMENTS TO
MINNESOTA RULE DPW 160 OF THE
DEPARTMENT OF PUBLIC WELFARE
GOVERNING THE ADMINISTRATION
OF PUBLIC SOCIAL SERVICES

STATEMENT OF NEED AND REASONABLENESS

The above captioned rule is an amendment to the existing rule of the Department of Public Welfare. This rule was first promulgated October 11, 1976, and the first revision of this rule became effective March 5, 1979.

Rule 160 establishes standards for the administration of social services by county boards of commissioners and human services boards. The Department of Public Welfare finds it necessary to make certain additional changes in this Rule, to improve its clarity, to correct statements which have caused confusion and to further bring the Rule into compliance with the Federal Title XX Regulations. J. Philip Peterson, Administrative Generalist and Herb Cashdollar, Supervisor, Service Administration Section, will represent the Department as expert witnesses in providing testimony to the reasonableness of the proposed change.

The following are the specific grammatical and substantive changes proposed and an explanation of why the Department of Public Welfare believes these changes are reasonable, necessary, and in the best interests of the Minnesota Program.

Section A.1. The phrase <u>as identified in A.6.t. of the rule</u> has been added to the first sentence. Because publicly funded social services are not limited to the scope of this rule, it is reasonable and necessary to limit the binding effect of this rule to social services identified in A.6.t.

Section A.1. Since the Community Social Services Act, Minn. Stat. §§256E.01-256E.12 (Supp. 1979), provides for a state supervised, locally administered social services delivery system, it is reasonable and necessary to incorporate Chapter 256E into the authority base for this social service delivery method.

Section A.4. In this paragraph and throughout the rule at A.5, A.6.o.,q.,r. and t, C.3, H.8.b. and H.10.6(1)(a), the term county welfare board has been stricken and the language changed to county boards of commissioners. It is reasonable and necessary to make this change because the Community Social Services Act designates the county boards of commissioners as the authority to administer, plan and fund community social service programs. (Minn. Stat. §256E.09, Subd. 1 (Supp. 1979)).

Section A.6.p. In this paragraph, the word by has been substituted for the word "in". It is reasonable and necessary to make this grammatical change to clarify the sentence.

Section A.6.t. The phrase established pursuant to Minn. Stat. 245.61-.69 has been added to "mental health center programs". It is reasonable and necessary to add this clarifying language in order to more clearly delineate those mental health center programs which are not bound by this rule. The meaning and intent of this paragraph is unchanged.

Section B.7. The words "on request" have been removed from the end of the second sentence and placed at the beginning of this sentence. This change makes the sentence grammatically correct and improves its clarity.

Section C.1.b. 45 CFR 228.36, addressing the subject of amendments to the final services plan, states that "amendments to the final services plan are necessary at least when... specific services are to be added or deleted" 45 CFR 228.36(a)(3)(i). Amendments to the final services plan cannot be made without going through the formal process of 1) displaying the proposed amendments, 2) describing the proposed changes and the reasons for them, 3) identifying the effective date of the change, 4) soliciting comment and describing how and where comments will be received, 5) identifying the beginning and ending date of the public comment period (no less than 30 days), and 6) addressing other formal processes which are identified in 45 CFR 228.36.

This same Title XX citation, at 45 CFR 228.36(b)(5)(i)-(iv) spell out the procedures for the final amendment and state at (5)(iv)(c) that "the effective date of an amendment shall be no earlier than the date of publication of the final amendment."

Although the amendment process is spelled out in the Final Comprehensive Annual Services Program Plan (CASP) and the guidelines for this plan, there has continued to be confusion over when local social service agencies could amend priority and optional services out of their local social service plans.

Previous language in Rule 160 has not been clear on this point. It is reasonable and necessary to add the proposed phrase to ensure conformity of Rule 160 with the CASP program plan guidelines and to ensure compliance with the federal regulations governing the amendment process.

This is a clarifying phrase and does not change the meaning and intent of this paragraph.

Section C.2. There are two changes in this paragraph. The word "must" has been changed to "shall". The purpose of this change is to make the language in the rule grammatically consistent. This change does not alter the meaning or intent of this paragraph.

The second change in this paragraph is the deletion of the phrase "who need or request them" and the addition of the phrase, determined by the local social services agency. It is reasonable and necessary to add this phrase in order to make this language consistent with Section C.1.a. of this rule. The meaning and purpose of this paragraph remain unchanged.

Section C.2.h. The phrase including MR guardianship and conservatorship services has been added to the service of child protection. Because claims for FFP have not been made in the past for these unique child protection services, it is reasonable and necessary to add this phrase in order to make it permissible for local social service agencies to claim federal financial participation in the costs of providing these services.

Section C.2.i(2). DPW Rule 185 requires the development of a service plan for all mentally retarded persons (including adults), and placement in day care or residential facilities when appropriate. It is reasonable and necessary to add adults to this subparagraph because of the requirements of Rule 185.

Section C.3. Editorial changes have been made in this paragraph to make it read more clearly. Confusion has been expressed over the meaning of "significantly funded" and "significantly delivered", (i.e., What is meant by significantly?). We have stricken the word "significantly" before "funded" and the words "significantly delivered" in the first sentence of this paragraph. It is reasonable and necessary to make these editorial changes in order to make this paragraph read more clearly. The meaning and intent of this paragraph is not changed.

Section C.3.h. Money management has been added to this list of priority services. This service was inadvertently omitted from the rule in the past, and its inclusion corrects a past omission. This amendment is reasonable and necessary because money management services have been funded or provided by the state in the past in accordance with the general test set forth in Section C.3.

Section C.3.j.(2). This new subparagraph, Residential treatment for individuals who are mentally ill has been added in recognition that in the continuum of care for mentally ill individuals it is often necessary to provide more intensive and complete residential treatment programs before these individuals can be placed in halfway house programs.

Section C.3.j.(3). This subparagraph, formerly C.3.j.(2) contains one grammatical change. We have substituted the word or for "and" in order to clarify the intent and meaning of this priority service. It is not necessary for an individual to be both chemically dependent and mentally ill to benefit from halfway house services. It is reasonable and necessary to correct any misunderstanding due to use of the word "and" rather than "or".

Section C.3.k. This single subsection designation (1) is deleted and the language following old subsection (1) is brought up to the same line as Transportation Services. Here and throughout the Rule all such single subsections are being deleted and dealt with in the above-identified manner. These changes are reasonable and necessary in order to satisfy currently accepted standards of rule composition.

Section C.4. To improve its clarity, some language has been omitted and some changed in this paragraph. It is redundant to refer to optional services

as "nonmandatory"; the use of the word provision is more clear than the word "records"; and the use of the phrase Section C.3. of this rule is less wordy than the previous language. It is reasonable and necessary to make these editorial changes to improve the clarity of the paragraph. The intent and meaning of the paragraph remain unchanged.

Section E.7. Paragraph E.7. a-b represents a significant amendment to the rule. Although the right to a fair hearing by an applicant for or recipient of social services is not in dispute, there has been a lack of clarity regarding kinds of actions that are appealable. The intent of this amendment is to provide that clarification and to bring the rule fully into compliance with federal regulations (45 CFR 228.14) and Minn. Stat. 256.045. In regard to 7.a.(1), there have been past instances where local social service agencies have not taken action on applications for social services within the time limits prescribed in Section E.5. of this rule. Because this has been a problem in the past, it is reasonable to specifically identify failure to act on applications in accordance with E.5. of the rule as an example of an appealable action.

Regarding 7.a.(2)-(5), these are examples of issues which have been brought to our attention in the past, either through formal appeal or informal inquiry. Because these issues have been established as areas of concern based on historical precedent, and because they most frequently are the issues which are raised in regard to social service appeals and inquiries, it is reasonable to specifically cite them in order to establish statewide uniformity that these are indeed appealable actions.

Section G.1. The phrase mutually agreed upon by the agency and the service recipient has been added to this paragraph in order to make clear the joint effort of the client and the agency in developing a plan for social services.

It is reasonable and necessary to add this phrase to bring the paragraph into conformity with G.2.a.-d. of the Rule. The intent and meaning of this paragraph is not changed.

Section G.2.b. To this subparagraph the phrase service provider has been added. It is common practice to identify the service provider, as well as what the service will be, how often it will be provided, the service objectives and the anticipated length of time it will take for the service objectives to be met, in developing a client-specific social service plan. Because of several situations which have come to our attention involving disputes between local social service agencies and clients regarding who will be providing a service, it is reasonable and necessary to include the designation of the service provider in the client social services plan. This does not constitute a substantive change in the subparagraph; the meaning and intent remain unchanged.

Section H.2.d. In this paragraph, the word "safeguarded" has been deleted and the phrase collected, used, stored and disseminated only in accordance with state and federal law has been substituted. The word "safeguarded" is ambiguous and open to interpretation. In order to guard against improper use of client information, it is reasonable and necessary to state precisely the legal guidelines for how this information will be safeguarded.

Section H.2.e. To this paragraph the words "duration of" have been included before the word "residence". The words "duration of" have been added to clarify the meaning of this provision and to conform to the wording found in 45 CFR §228.11.

Section H.3. This paragraph is being deleted from DPW Rule 160 due to the enactment of the Community Social Services Act, Minn. Stat. §256E.01 to 256E.13

social service funds among the counties. It is reasonable and necessary to delete this paragraph because the Act has made it obsolete and void.

Section H.5.b.(4)(h). This subparagraph of the current DPW Rule 160 is being deleted as a part of those activities and services which can be provided to children in need of protection without regard to income. 45 CFR 228.65(a)(3) states that in order to provide services without regard to income, the agency must "document the circumstances which lead it to believe that the individual is subject to, or at risk of, abuse, neglect or exploitation". When the court has intervened on behalf of a child in need of protective services, it is reasonable to conclude that the "at risk" status of the child had been removed. Because of the difficulty in documenting the "at risk" status of the child, it is reasonable and necessary to delete this subparagraph from the current rule in order to guard against improper claims for Federal Financial Participation. Continued eligibility for Title XX FFP would be based on income guidelines.

Section H.7.a.(2). To this subparagraph have been added the words under age 18. It is reasonable and necessary to add this clarifying phrase in order to make it consistent with the language of Section H.7.b. and H.7.c.(4). The meaning and intent of this subparagraph is not changed.

Section H.7.c.(4). In this subparagraph we have deleted the words "this section" and substituted the phrase determining Title XX eligibility. The State of Minnesota does not have a legal definition of "emancipated minor"; to avoid any confusion as to whether or not this subparagraph constitutes a legal definition, it is reasonable and necessary to make this change so that the status of emancipated minor is clearly related to Title XX eligibility. The meaning and intent of this paragraph are unchanged.

Section H.9.c.(2). In sentence two of this subparagraph we have added the word upon. This addition is reasonable and necessary because it makes this sentence grammatically correct and improves its clarity.

Section H.10.c.(1). The proposed addition to this subparagraph represents a significant amendment to the current rule on host county contracting. Many local social service agencies believe, and the Department concurs, that they should have more latitute in refusing, for good cause, to develop a host county contract. This amendment gives recognition to the possibility that even though a vendor is approved (i.e., meeting minimum licensing standards), it is not necessarily in the best interest of the local social services agency requesting a host county contract, or the social service recipient for whom the contract is being requested, for a contract to be written with certain purchase of service agencies. This amendment also gives recognition to the fact that the host county is in the best position to make such decisions. Good cause refusals to develop a host county contract are limited by this amendment to 1) failure of a vendor to comply with the conditions of past or present contracts and 2) termination of previous contracts because of failure of the vendor agency to provide adequate service. It is reasonable and necessary to make this amendment in order to give local social service agencies more decision-making authority in the host county contracting process.

Section H.10.c.(5)(6). In this subparagraph we have stricken the language "Area Mental Health Board" and replaced it with the specific term used in Minn. Stat. §245.66. This change does not effect the meaning or intent of this subparagraph.

IS/gsg

Dated: May 1, 1980

Arthur E. Noot, Commissioner
Department of Public Welfare

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

AFFIDAVIT OF ADDITIONAL MAILING

LINDA M. NELSON, being first duly sworn, deposes and says:

That on the 9th day of May, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to mailing the attached Notice of Hearing to all persons and associations listed on the Secretary of State's list, she also served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid to the following agencies:

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

Linda M. Nelson

Subscribed and sworn to before me
this 15 day of May
1980.

Margaret Nolte



STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

AFFIDAVIT OF MAILING

LINDA M. NELSON, being first duly sworn, deposes and says:

That on the 9th day of May, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Linda M. Nelson

Subscribed and sworn to before me this

15 day of May, 1980.

Margaret Holt

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

LINDA M. NELSON, being duly sworn on oath deposes and says:

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

2) That on the 8th day of May, 1980, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 8th day of May, 1980, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Linda M. Nelson

Subscribed and sworn to before me

this 15 day of May,

1980.

Margaret Holt



STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE DEPARTMENT OF PUBLIC WELFARE'S PROPOSED ADOPTION OF AMENDMENTS TO 12 MCAR 2.160 (DPW RULE 160) GOVERNING THE ADMINISTRATION OF PUBLIC SOCIAL SERVICES

CERTIFICATE OF DELIVERY

I hereby certify that the attached 343 labels 4 sheets constitute the complete list of persons, associations, and other interested groups who as of 8:30 o'clock A.M., this 8th day of May, 1980, have requested pursuant to M.S. 1976, 15.0412 Subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

BY

Donna Scott

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

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

Alan A. Held

Special Assistant Attorney General

Dated: 10/23/80