

Minnesota Attorney General: Administrative Rules Proceedings

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Our File #651

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. 25, 1980

ATTN: BEVERLY HEYDINGER, S.A.A.G.

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the Matter of the Proposed Amendment of 12 MCAR § 2.200 Governing the Administration of the Subsidized Adoption Portion of the Adoption Rule.

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

651

Permanent Rule X w/o hrg.

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 11/12 DUE DATE 11/26

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved _____ Date Sent Back to Agency 11-25-80
ATTN. BEV HEYDINGER

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N/A
4. Order for ~~Hearing~~ Notice of Intent to Adopt w/o hrg. not submitted - see memo, Nelson to Heydinger
5. Notice of ~~Hearing~~ Intent to Adopt w/o hrg.
   Sufficiency contains statements required by statute, tho' not in exact wording Note: cite to statutory authority is incorrect.
6. ~~Secretary~~ Agency's of State's List ✓ (one copy only)
7. Certificate ~~of Acquisition of Secretary of State's List~~ of Accuracy of Agency List ✓
8. ~~Secretary of State's Certification of Delivery of Secretary of State's List to Agency~~ _____
9. Affidavit of Mailing ✓
   At least 30 days prior to ~~hearing~~ adoption ✓ 9.5.80
10. Publication in State Register ✓
    At least 30 days prior to ~~hearing~~ adoption ✓ 9.8.80
11. Statement of Need and Evidence ✓
12. ~~Hearing Examiner's Report~~ _____
13. Agency's Findings of Fact ✓ combined with No. 15 - Order Adopting
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A
15. Order Adopting ✓ combined with No. 13. Findings of Fact - 11.5.80
16. Report of Chief Hearing Examiner N/A
17. Order Approving Incorporation by Reference, where applicable ✓
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable not submitted, see memo, Nelson to Heydinger
20. Petition by Public, where applicable N/A
21. Comments, Requests Subsequent to Notice ✓
22. Affidavit + Notice of Submission to AG ✓

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR E. NOOT

COMMISSIONER OF PUBLIC WELFARE

IN THE MATTER OF THE
PROPOSED AMENDMENT TO
RULE (12 MCAR §2.200)
GOVERNING THE ADMINISTRATION
OF THE SUBSIDIZED ADOPTION
PORTION OF THE ADOPTION RULE

FINDINGS OF FACT AND
ORDER ADOPTING PERMANENT
AMENDMENTS TO RULE 200

Notice of the Commissioner's intent to promulgate rules without a public hearing and the text of the proposed rule amendments were published in the State Register on September 8, 1980, 5 S.R. 384. Notice was sent by United States mail to all persons who had registered their names with the agency pursuant to Minn. Stat. § 15.0412, subd. 4 (1978, as amended, Minn. Laws 1980, ch. 615, § 6). Pursuant to Minn. Stat. § 15.0412, subd. 4h (Minn. Laws 1980, ch. 615, § 7), the public was given thirty (30) days in which to comment on the proposed rule, and given notice that no public hearing would be held unless seven or more persons made a written request for a hearing within 30 day comment period. Comments were received from Dale L. Szyszka, Lew Miller and Marge Mereen. Having received no requests for a public hearing on the proposed rule, the Department has reviewed all the comments and recommendations and makes the following:

FINDINGS OF FACT

A question was raised on the clarity of the word "planning" in A.2.j. The adjective "adoptive" is added to define the meaning of "planning". This revision does not substantially change the rule.

Rule 200 sections C.1 to C.3 were included to provide continuity in the publication of the proposed rule amendments of section C.4 on subsidized adoption. Comments received on sections C.1 to C.3 are not appropriate to the proposed rule amendments.

Marge Mereen, Children's Home Society, requested that section C.4.b. of the rule be clarified to specifically include older children with emotional needs. A review of the language in the proposed rule shows that it is adequate to cover a variety of children under the "special needs" clause. Use of the word "include" in the rule followed by a list of special needs allows the placing agency to expand the list. The list of special needs contains the clause "and other costs necessary for the child's care and well being". That clause allows the placing agency to determine the need for subsidy according to the particular child's condition or circumstances. Therefore no change in the language is required.

Questions were raised about how medical costs are determined and how disagreements are handled under C.4.d.(2). The focus in this section is not on the type of care needed but on documenting what the child's medical expenses will be and what is available in medical financial resources to meet those expenses.

The purpose of this section is to determine what amount of medical expenses will need to be covered by a subsidy. No revision of this section is required.

A recommendation was made to add an item (5) to section C.4.d. on appeals procedures covering items (1) through (4). Section C.4.d. establishes the criteria upon which the agency determines the amount of the subsidy the child needs. Item (4) in that section requires that the facts, in both the agency record and the subsidy agreement, are consistent. The right of the adoptive parents to appeal is related to the Commissioner's action to deny, discontinue or modify the agreement and is appropriately provided in item (7) of section C.4.e., the section concerning the written Subsidized Adoption Agreement.

A recommendation was made that section C.4.e. pertaining to the Subsidized Adoption Agreement should require all notifications to the Commissioner by the adoptive parents, subsequent guardian or conservator to be made in writing. The intent of the rule is that notification would be in writing, therefore, the Commissioner is adding that specification to those items in C.4.e. of the rule. The modifications do not make a substantial change in the rule.

A question was raised on the meaning of "available" in C.4.e. Because "available" health insurance and financial programs includes a variety of resources, such as the family's insurance, other health insurance, Social Security or Veteran benefits, S.S.I., Medical Assistance, AFDC, Service to Children with Handicaps, inheritance, federal programs, et al., it is not necessary to include an exhaustive list in the rule.

A question was raised on the meaning in section C.4.e. (VIII) of "within the parameters of the agreement". The adoptive parents are expected to submit only those expenses relating to the child's needs as covered by the subsidized adoption agreement; the Commissioner is expected to reimburse within the provisions of the agreement. Section C.4.e. establishes the criteria for setting the parameters of the written agreement. No change in rule is required.

A recommendation was made that all the items relating to the content of the subsidized adoption agreement be contained in one section of the rule. Section C.4.e. includes those items within its section necessary to an agreement. The Subsidized Adoption Agreement is based on the provisions in this section of the rule and a model does not need to be attached or become a part of the rule.

A question was raised on section C.4.e. (7) as to what circumstances would cause the Commissioner to deny, discontinue or modify the agreement. The Rule indicates that when there is a change in the child's need for a subsidy, the child is no longer under the care of the parents, subsequent guardian or conservators, reaches the age of legal majority, is legally emancipated or is deceased, the Commissioner may deny, discontinue, or modify the agreement. The question does not require a change in the rule.

A recommendation was made that paragraphs relating to payment for administrative expenses be deleted in section C.4.g. on reimbursement to agencies. Minn. Stat. §259.40, Subd. 7 requires the Commissioner to reimburse the agency for 100 percent of the reasonable and appropriate costs of providing or purchasing adoption services. Administrative costs are a part of adoption services. The Commissioner cannot withhold payment when the agency has documented that the expenses, including administrative costs, are reasonable and appropriate. Therefore no change in language is required.

During September 16, 1980 workshop discussion of section C.4.g. (4) on purchase of services in the proposed rule, the recommendation was made to add the words "for approval and" to the existing statement in the rule to clarify the Commissioner's responsibility. This clarification is added but does not make a substantial change to the rule.

The rule as adopted is otherwise identical to the rule proposed. The need for and reasonableness of the rule amendments has been fully set forth, and adequately demonstrated. The rule shall be submitted to the Attorney General for review as required by Minn. Stat. § 15.0412, Subd. 4h. (1980).

NOW THEREFORE IT IS ORDERED that in light of the fact that the need for and reasonableness of these rule amendments have been demonstrated, the permanent rule amendments, identified as Permanent Rule on Subsidized Adoption, are hereby adopted and shall become effective five (5) working days after publication in the State Register, pursuant to the authority of Minn. Stat. § 256.0412, Subd. 4h (Minn. Laws 1980, ch. 615, § 7).

Dated November 5 1980

STATE OF MINNESOTA
Department of Public Welfare

ARTHUR E. NOOT
COMMISSIONER

CS/ggs

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR E. NOOT

COMMISSIONER OF PUBLIC WELFARE

IN THE MATTER OF THE
PROPOSED AMENDMENTS TO
RULE (12 MCAR § 2.200)
GOVERNING ADOPTION
SUBSIDY

SUPPLEMENTAL
ORDER ADOPTING PERMANENT
AMENDMENTS TO RULE 200

The proposed permanent rule amendments were printed in the State Register on September 8, 1980, 5 S.R. 384. Subsequently, several revisions to the proposed rule were made to clarify meaning with the basis for these stated in the Commissioner's Order Adopting Permanent Amendments to Rule 200.

A review of the rule has revealed the need for consistency in language in Section C.4.e. as follows:

1. C.4.e.(1)(b)(ii):
   Assist the adoptive parents, subsequent guardian or conservator in the review or modification of the agreement.

2. C.4.e.(6):
   The adoptive parents, subsequent guardian or conservator may request modification or termination of agreement at any time by a written contact with the placing agency.

3. C.4.e.(7):
   The adoptive parents, subsequent guardian or conservator have the right to appeal pursuant to Minn. Stat. § 256.045, when the Commissioner denies, discontinues, or modifies the agreement. The appeal shall be initiated by a written request to the Commissioner within thirty (30) days after receiving written notice of the action or decision from the Commissioner or within ninety (90) days if the parent(s) show good cause why the request was not submitted within the thirty (30) day time limit.

These revisions, additional to those submitted under the previous Commissioner's Order, do not substantially change the rule. These revisions make clear which persons may initiate actions relating to the subsidized adoption agreement.

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

NOW THEREFORE IT IS ORDERED that these rule amendments, identified as Permanent Rule on Subsidized Adoption, are hereby adopted and shall become effective five (5) working days after publication in the State Register, pursuant to the authority of Minn. Stat. § 256.0412, Subd. 4h (Minnesota Laws 1980, Chapter 615, § 7).

Dated November 21, 1980

STATE OF MINNESOTA
Department of Public Welfare

Arthur E. Noot

ARTHUR E. NOOT
COMMISSIONER

AEN:jb

Permanent Rule AS ADOPTED

Adoption (A.2 and C.4)

12 MCAR 2.200

A. Introduction

2. Definitions

j. Placing Agency: The Minnesota licensed child placing agency which has guardianship of a child from a Minnesota court or the local social service agency which has financial responsibility for a ward of the Commissioner of Public Welfare. The placing agency retains adoptive planning responsibility for the child even though another agency is supervising.

k. Post-placement services: Social services provided to the child and the adoptive parents from the time of placement until legal adoption.

l. Post-adoption services: Social services provided after legal adoption to the adoptive parents, genetic parents or adopted individuals.

m. Relative: An individual who is related to a child within the third degree according to the Civil Table of Consanguinity by blood, marriage or adoption as a parent, stepparent, brother, sister, grandparent, great grandparent, aunt, uncle, niece or nephew.

n. State Adoption Exchange: The central adoptive home and child registration service operated by the Minnesota Department of Public Welfare's adoption unit for use by authorized child-placing agencies.

o. State agency: The Commissioner of Public Welfare or the Minnesota Department of Public Welfare.

p. Subsidized adoption: An adoption in which an agreement provides that financial payments shall be made to the adoptive parent(s), subsequent guardian or conservator because of special needs of a child who is certified as eligible for subsidy.

q. Suitability study: The pre-adoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational and health needs of a particular child.

C. Services for Children Freed for Adoption

1. State adoption exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the Commissioner. This provision shall not apply to the licensed child placing agencies, Hennepin, Ramsey, or St. Louis Counties, whose use of the Exchange is optional.

a. The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, racial or religious heritages, and health, social, and educational needs.

b. The local social service agency shall make reasonable efforts to provide and preserve the child's heritage by placing the child:

(1) In an adoptive home of similar background; or

(2) In an adoptive home which is knowledgeable and appreciative of the child's heritage.

2. The child's foster home. The local social service agency may consider the foster home in which the child is currently living as a potential adoptive resource for the child.

a. In such cases, at least one of the following criteria shall apply:

(1) The child has special needs (physical and mental health, education or social) which the foster family will be able to adequately meet.

(2) The child is older than an infant, has lived at least twelve consecutive months in the foster home, and is an integrated member of the foster family.

(3) The foster family will be able to accept the child and his background and help the child understand his adoption.

(4) The foster family is either the best adoptive resources for the child or is at least comparable to available resources.

b. Except in Hennepin, Ramsey and St. Louis Counties, a joint decision between the state agency's adoption unit and the local social service agency as to whether the foster home would be a suitable adoptive home for the child shall be made. The decision shall be based upon:

(1) The local social service agency's written statement and recommendation to the state agency identifying applicable criteria; and

(2) The state agency's written response either approving or disapproving the recommendation.

c. Where a licensed child-placing agency, which is supervising a child under state guardianship, wishes to consider the foster home as the adoptive resource for the child, it shall obtain approval from the local social service agency which has financial responsibility.

3. Child placement. The following policies shall govern the local social service agency's child-placing activities:

a. Preplacement activities:

(1) The social worker assigned to the adoptive home shall, prior to the child being placed in the adoptive home, visit the child in his foster home. This preplacement visit may only be waived if the child is under six months of age and is without special needs.

(2) The child's social worker shall provide the adoptive parents with a written genetic and health history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

(3) An adoptive family shall spend at least two days in the child's community becoming acquainted with the child prior to the transfer of physical custody from the agency to them. This provision may be waived. in the discretion of the agency, where extraordinary circumstances dictate prompt placement.

4. Subsidized adoptions: This section provides standards for determining a child's eligibility for subsidy and the criteria for establishing the terms of the subsidy agreement. Subsidized adoption is based upon the needs of the child who is certified as eligible for subsidy and is available through the Commissioner of Public Welfare for a child under legal guardianship of the Commissioner or licensed child placing agency. The Commissioner may review and verify the facts upon which the child's eligibility is based.

a. The placing agency shall document in the child's case record all facts upon which the agency certifies the child as eligible for subsidy.

b. The placing agency may determine that subsidy is needed for children placed as sibling groups, children who are entitled to placement with a family of similar ethnic background (i.e., American Indian, Black,

Hispanic, Asian), and children with special needs, for whom adoptive homes are not readily available. Special needs include medical, dental and surgical expenses, psychiatric and psychological expenses, maintenance costs, and other costs necessary for the child's care and well-being.

c. The placing agency shall certify the child as eligible for subsidy when the following criteria are met:

(1) The child is a Minnesota resident and a ward of the Commissioner or licensed child placing agency.

(2) The agency shall make an early determination on the availability of a home without subsidy, preferably within two months of the child becoming legally available for adoption.

(3) A child shall be eligible for subsidized adoption by his/her foster parents if the following criteria are met and documented:

(a) The child's foster parents desire to adopt the child, and

(b) The agency determines the adoption is in the best interest of the child, according to the criteria established in C. 2., of this rule, and

(c) The child's circumstances or characteristics make it difficult for the agency to provide the child a home without a subsidy, or

(4) The placing agency has made reasonable efforts without success to place the child without subsidy. Such efforts include the following:

(a) The agency shall register the child on the State Adoption Exchange to obtain adoptive home referrals.

(b) The agency shall contact Hennepin, Ramsey, St. Louis Counties and Minnesota-based licensed child placing agencies to seek potential adoptive homes.

(c) The agency may use photo listing services, adoption exchange services, newsletters or other special efforts to secure a home.

(5) When the child is placed into a prospective adoptive home without a subsidy but the need for subsidy becomes evident prior to legal adoption, the placing agency shall apply the criteria in C.4.c.(1) and (3) to determine the child's eligibility for subsidy.

(6) The placing agency shall certify to the Commissioner, in writing under its director's or designee's signature, the child's eligibility for subsidy. The statement shall include the conditions or circumstances upon which the child's eligibility is based.

d. When determining the amount of subsidy, the placing agency shall consider the financial resources, social security and veterans benefits, health insurance coverage, medical assistance programs, and other resources available or which may be available to the child.

(1) Maintenance: Maintenance payments shall be provided as necessary to ensure the adoption of a child. The placing agency shall refer to DPW Rule 44, 12 MCAR 2.044, to determine the amount of a child's monthly maintenance needs for food, clothing, allowances, supplies and transportation. The total monthly maintenance payments may be less than, equal to or more than the basic rate. Amounts greater than the basic rate shall be set according to the difficulty of care standards and the need for the greater amount shall be documented.

(2) Medical: The placing agency shall determine the medical, dental, surgical, psychiatric, and psychological expenses, and other related costs necessary for the child's care and well-being. In determining the costs, the placing agency shall identify the child's circumstances or conditions that require subsidy. The placing agency shall:

(a) Document the kind and amount of health insurance or other medical financial resources available to meet the needs of the child.

(b) Document the actual or estimated expenses for medical, dental, surgical, psychiatric, psychological or other related needs of the child which are not covered by health insurance and/or other alternative financial or medical resources.

(3) Special costs: The placing agency shall determine whether other costs not included in (1) and (2) of this section are necessary for the child's care and well-being. The placing agency shall specify the child's needs and document the actual or estimated expenses required to meet that need.

(4) The agency record and the subsidy agreement shall include all relevant facts upon which subsidy payments are based, the amount and frequency of payments. If the amount and frequency of payments are unknown, estimates and the basis for them shall be included.

e. The placing agency shall prepare in writing the Subsidized Adoption Agreement clearly setting forth the responsibilities of all the parties and the terms and duration of the agreement.

(1) The agreement shall state the responsibilities of the parties as follows:

(a) The adoptive parent(s), or in the event of their death or inability to function as parent(s), the subsequent guardian or conservator, shall agree to:

(i) Submit to the Commissioner a written statement each year within thirty (30) days of the anniversary date of the approved agreement to certify whether the child remains under their care and the need for subsidy continues to exist.

(ii) Notify the Commissioner <u>in writing</u> within thirty (30) days in the event of change in status and its effect on the expenses covered by the subsidy:

(aa) Marriage of child or parent.

(bb) The child's absence from the home by court action or for any reason for a period of more than thirty (30) days.

(cc) Death of child or parent.

(dd) Legal emancipation of the child.

(iii) Notify the Commissioner in writing within thirty (30) days of any change which may affect the duration or amount of the subsidy needed.

(iv) Notify the Commissioner in writing within thirty (30) days of a change in address to ensure proper mailing of payments.

(v) Participate in and use health insurance and financial programs available for the child.

(vi) Notify the Commissioner in writing at least thirty (30) days before a planned medical or special expense is incurred to ensure prompt payment after expense statements are submitted to the Commissioner.

(vii) Notify the Commissioner in writing soon after an emergency of the anticipated cost so that the Commissioner may begin to budget for that expense.

(viii) Submit expense statements to the Commissioner to receive subsidy payments for incurred costs over and above agreed upon monthly payments, but within the parameters of the agreement.

(b) The placing agency shall agree to:

(i) Specify in the agreement:

(aa) The terms and duration of the subsidy as defined in C.4.d.

(bb) The effective date of the agreement which shall be the date of legal adoption. When the child's needs cannot be met by state and federal programs or other available resources prior to legal adoption, the Commissioner shall establish an earlier effective date between the child's placement in the adoptive home and legal adoption.

(ii) Assist the adoptive parent(s), subsequent guardian or conservator in the review or modification of the agreement.

(iii) Assist the Commissioner in the review or modification of the agreement.

(c) The Commissioner shall agree to make financial payments to the adoptive parent(s), subsequent guardian or conservator, as follows:

(i) Payments regardless of the domicile or residence of the adoptive parent(s), subsequent guardian or conservator at the time of application for adoptive placement, legal decree of adoption, or thereafter.

(ii) Monthly payments for the agreed upon maintenance costs and other regular costs as specified in the agreement.

(iii) Payments based upon the expense statements received from the adoptive parent(s), subsequent guardian or conservator for the child's medical or special expenses which are within the parameters of the agreement.

(iv) Payments may be terminated at the written request of the adoptive parents, subsequent guardian or conservator.

(2) When the terms and duration of the subsidy are agreed upon by the parties, the placing agency shall:

(a) Prepare six written copies of the agreement.

(b) Insure that all copies are signed by the adoptive parent(s) and the placing agency director or designee.

(c) Submit all copies to the State Adoption Unit for the Commissioner's approval.

(3) Upon Commissioner's approval, copies of the agreement shall be distributed to the adoptive parent(s) and placing agency. The State Agency shall establish an account to reimburse the adoptive parent(s), subsequent guardian or conservator upon the effective date of the agreement or, in instances when monthly payments are made, the month beginning closest to the effective date.

(4) The subsidy agreement shall continue in accordance with its terms as long as the need for subsidy continues and the child remains the legal dependent of the adoptive parent(s), subsequent guardian or conservator.

(5) The terms of the agreement shall be reviewed and appropriately modified when significant changes in the child's status occur.

(6) The adoptive parent(s), subsequent guardian or conservator may request modification or termination of agreement at any time by ~~contacting~~ a written contact with the placing agency or the Commissioner.

(7) The adoptive parents, subsequent guardian or conservator have the right to appeal to the Com-missioner pursuant to Minn. Stat. 256.045, when the Commissioner denies, discontinues, or modifies the agreement. The appeal shall be initiated by a written request to the Commissioner within thirty (30) days after receiving written notice of the action or decision from the Commissioner or within ninety (90) days if the parent(s) show good cause why the re-quest was not submitted within the thirty (30) day time limit.

f. Subsidy payments received according to the terms of the agreement, shall not affect eligibility for any other financial payments (i.e., social security, veterans, or other benefits) to which a person may otherwise be entitled.

g. The placing agency shall receive a reimbursement from the Commissioner equal to 100% of the reasonable and appropriate cost of providing or purchasing adoption services for a child certified as eligible for a subsidy, including when necessary adoptive family recruitment, counseling, special training and legal fees for finalization. The criteria for reimbursement are:

(1) The child meets the certification requirements of C.4.c.

(2) The child has achieved either an adoptive placement or a legal adoption prior to the agency claim for reimbursement.

(3) The placing agency has determined that either partial or full cost of providing or purchasing the adoption services is not reimbursable under other state and federal financial programs.

(4) The placing agency shall submit purchase of service agreements to the Commissioner for approval and for review of anticipated expenses.

(5) The placing agency shall notify the State Adoption Unit in writing when the agency anticipates that its expenses may exceed $3,000 for adoption services on a child certified as eligible for subsidy.

(6) The placing agency shall submit an itemized statement of expenses to the State Adoption Unit for reimbursement prior to June 30 of each fiscal year.

(a) The itemized expenses shall not exceed the prevailing costs for similar services to children under agency care.

(b) The Commissioner shall reimburse the placing agency for 100% of the expenses that are not reimburseable under other state and federal programs.

h. The Commissioner shall work with American Indian child adoption organizations able to be licensed as child placing agencies. American Indian children, who are protected under the Federal Indian Child Welfare Act of 1978 (25 U.S.C. §19 et seq.) and who are certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts or a licensed Indian child placing agency.

APPROVED AS TO FORM AND LEGALITY

11/24 1980

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 24 1980
Joan Anderson Growe
Secretary of State

3:25 P.M.

AG copy

underlinings indicate changes from Rules as Proposed

Permanent Rule AS ADOPTED

Adoption (A.2 and C.4)

12 MCAR 2.200

A. Introduction

2. Definitions

j. Placing Agency: The Minnesota licensed child placing agency which has guardianship of a child from a Minnesota court or the local social service agency which has financial responsibility for a ward of the Commissioner of Public Welfare. The placing agency retains adoptive planning responsibility for the child even though another agency is supervising.

k. Post-placement services: Social services provided to the child and the adoptive parents from the time of placement until legal adoption.

l. Post-adoption services: Social services provided after legal adoption to the adoptive parents, genetic parents or adopted individuals.

m. Relative: An individual who is related to a child within the third degree according to the Civil Table of Consanguinity by blood, marriage or adoption as a parent, stepparent, brother, sister, grandparent, great grandparent, aunt, uncle, niece or nephew.

n. State Adoption Exchange: The central adoptive home and child registration service operated by the Minnesota Department of Public Welfare's adoption unit for use by authorized child-placing agencies.

o. State agency: The Commissioner of Public Welfare or the Minnesota Department of Public Welfare.

p. Subsidized adoption: An adoption in which an agreement provides that financial payments shall be made to the adoptive parent(s), subsequent guardian or conservator because of special needs of a child who is certified as eligible for subsidy.

q. Suitability study: The pre-adoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational and health needs of a particular child.

C. Services for Children Freed for Adoption

1. State adoption exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the Commissioner. This provision shall not apply to the licensed child placing agencies, Hennepin, Ramsey, or St. Louis Counties, whose use of the Exchange is optional.

a. The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, racial or religious heritages, and health, social, and educational needs.

b. The local social service agency shall make reasonable efforts to provide and preserve the child's heritage by placing the child:

(1) In an adoptive home of similar background; or

(2) In an adoptive home which is knowledgeable and appreciative of the child's heritage.

2. The child's foster home. The local social service agency may consider the foster home in which the child is currently living as a potential adoptive resource for the child.

a. In such cases, at least one of the following criteria shall apply:

(1) The child has special needs (physical and mental health, education or social) which the foster family will be able to adequately meet.

(2) The child is older than an infant, has lived at least twelve consecutive months in the foster home, and is an integrated member of the foster family.

(3) The foster family will be able to accept the child and his background and help the child understand his adoption.

(4) The foster family is either the best adoptive resources for the child or is at least comparable to available resources.

b. Except in Hennepin, Ramsey and St. Louis Counties, a joint decision between the state agency's adoption unit and the local social service agency as to whether the foster home would be a suitable adoptive home for the child shall be made. The decision shall be based upon:

(1) The local social service agency's written statement and recommendation to the state agency identifying applicable criteria; and

(2) The state agency's written response either approving or disapproving the recommendation.

c. Where a licensed child-placing agency, which is supervising a child under state guardianship, wishes to consider the foster home as the adoptive resource for the child, it shall obtain approval from the local social service agency which has financial responsibility.

3. Child placement. The following policies shall govern the local social service agency's child-placing activities:

a. Preplacement activities:

(1) The social worker assigned to the adoptive home shall, prior to the child being placed in the adoptive home, visit the child in his foster home. This preplacement visit may only be waived if the child is under six months of age and is without special needs.

(2) The child's social worker shall provide the adoptive parents with a written genetic and health history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

(3) An adoptive family shall spend at least two days in the child's community becoming acquainted with the child prior to the transfer of physical custody from the agency to them. This provision may be waived. in the discretion of the agency, where extraordinary circumstances dictate prompt placement.

4. Subsidized adoptions: This section provides standards for determining a child's eligibility for subsidy and the criteria for establishing the terms of the subsidy agreement. Subsidized adoption is based upon the needs of the child who is certified as eligible for subsidy and is available through the Commissioner of Public Welfare for a child under legal guardianship of the Commissioner or licensed child placing agency. The Commissioner may review and verify the facts upon which the child's eligibility is based.

a. The placing agency shall document in the child's case record all facts upon which the agency certifies the child as eligible for subsidy.

b. The placing agency may determine that subsidy is needed for children placed as sibling groups, children who are entitled to placement with a family of similar ethnic background (i.e., American Indian, Black,

Hispanic, Asian), and children with special needs, for whom adoptive homes are not readily available. Special needs include medical, dental and surgical expenses, psychiatric and psychological expenses, maintenance costs, and other costs necessary for the child's care and well-being.

c. The placing agency shall certify the child as eligible for subsidy when the following criteria are met:

(1) The child is a Minnesota resident and a ward of the Commissioner or licensed child placing agency.

(2) The agency shall make an early determination on the availability of a home without subsidy, preferably within two months of the child becoming legally available for adoption.

(3) A child shall be eligible for subsidized adoption by his/her foster parents if the following criteria are met and documented:

(a) The child's foster parents desire to adopt the child, and

(b) The agency determines the adoption is in the best interest of the child, according to the criteria established in C. 2., of this rule, and

(c) The child's circumstances or characteristics make it difficult for the agency to provide the child a home without a subsidy, or

(4) The placing agency has made reasonable efforts without success to place the child without subsidy. Such efforts include the following:

(a) The agency shall register the child on the State Adoption Exchange to obtain adoptive home referrals.

(b) The agency shall contact Hennepin, Ramsey, St. Louis Counties and Minnesota-based licensed child placing agencies to seek potential adoptive homes.

(c) The agency may use photo listing services, adoption exchange services, newsletters or other special efforts to secure a home.

(5) When the child is placed into a prospective adoptive home without a subsidy but the need for subsidy becomes evident prior to legal adoption, the placing agency shall apply the criteria in C.4.c.(1) and (3) to determine the child's eligibility for subsidy.

(6) The placing agency shall certify to the Commissioner, in writing under its director's or designee's signature, the child's eligibility for subsidy. The statement shall include the conditions or circumstances upon which the child's eligibility is based.

d. When determining the amount of subsidy, the placing agency shall consider the financial resources, social security and veterans benefits, health insurance coverage, medical assistance programs, and other resources available or which may be available to the child.

(1) Maintenance: Maintenance payments shall be provided as necessary to ensure the adoption of a child. The placing agency shall refer to DPW Rule 44, 12 MCAR 2.044, to determine the amount of a child's monthly maintenance needs for food, clothing, allowances, supplies and transportation. The total monthly maintenance payments may be less than, equal to or more than the basic rate. Amounts greater than the basic rate shall be set according to the difficulty of care standards and the need for the greater amount shall be documented.

(2) Medical: The placing agency shall determine the medical, dental, surgical, psychiatric, and psychological expenses, and other related costs necessary for the child's care and well-being. In determining the costs, the placing agency shall identify the child's circumstances or conditions that require subsidy. The placing agency shall:

(a) Document the kind and amount of health insurance or other medical financial resources available to meet the needs of the child.

(b) Document the actual or estimated expenses for medical, dental, surgical, psychiatric, psychological or other related needs of the child which are not covered by health insurance and/or other alternative financial or medical resources.

(3) Special costs: The placing agency shall determine whether other costs not included in (1) and (2) of this section are necessary for the child's care and well-being. The placing agency shall specify the child's needs and document the actual or estimated expenses required to meet that need.

(4) The agency record and the subsidy agreement shall include all relevant facts upon which subsidy payments are based, the amount and frequency of payments. If the amount and frequency of payments are unknown, estimates and the basis for them shall be included.

e. The placing agency shall prepare in writing the Subsidized Adoption Agreement clearly setting forth the responsibilities of all the parties and the terms and duration of the agreement.

(1) The agreement shall state the responsibilities of the parties as follows:

(a) The adoptive parent(s), or in the event of their death or inability to function as parent(s), the subsequent guardian or conservator, shall agree to:

(i) Submit to the Commissioner a written statement each year within thirty (30) days of the anniversary date of the approved agreement to certify whether the child remains under their care and the need for subsidy continues to exist.

(ii) Notify the Commissioner <u>in writing</u> within thirty (30) days in the event of change in status and its effect on the expenses covered by the subsidy:

(aa) Marriage of child or parent.

(bb) The child's absence from the home by court action or for any reason for a period of more than thirty (30) days.

(cc) Death of child or parent.

(dd) Legal emancipation of the child.

(iii) Notify the Commissioner in writing within thirty (30) days of any change which may affect the duration or amount of the subsidy needed.

(iv) Notify the Commissioner in writing within thirty (30) days of a change in address to ensure proper mailing of payments.

(v) Participate in and use health insurance and financial programs available for the child.

(vi) Notify the Commissioner in writing at least thirty (30) days before a planned medical or special expense is incurred to ensure prompt payment after expense statements are submitted to the Commissioner.

(vii) Notify the Commissioner in writing soon after an emergency of the anticipated cost so that the Commissioner may begin to budget for that expense.

(viii) Submit expense statements to the Commissioner to receive subsidy payments for incurred costs over and above agreed upon monthly payments, but within the parameters of the agreement.

(b) The placing agency shall agree to:

(i) Specify in the agreement:

(aa) The terms and duration of the subsidy as defined in C.4.d.

(bb) The effective date of the agreement which shall be the date of legal adoption. When the child's needs cannot be met by state and federal programs or other available resources prior to legal adoption, the Commissioner shall establish an earlier effective date between the child's placement in the adoptive home and legal adoption.

(ii) Assist the parent(s), subsequent guardian or conservator in the review or modification of the agreement.

(iii) Assist the Commissioner in the review or modification of the agreement.

(c) The Commissioner shall agree to make financial payments to the adoptive parent(s), subsequent guardian or conservator, as follows:

(i) Payments regardless of the domicile or residence of the adoptive parent(s), subsequent guardian or conservator at the time of application for adoptive placement, legal decree of adoption, or thereafter.

(ii) Monthly payments for the agreed upon maintenance costs and other regular costs as specified in the agreement.

(iii) Payments based upon the expense statements received from the adoptive parent(s), subsequent guardian or conservator for the child's medical or special expenses which are within the parameters of the agreement.

(iv) Payments may be terminated at the written request of the adoptive parents, subsequent guardian or conservator.

(2) When the terms and duration of the subsidy are agreed upon by the parties, the placing agency shall:

(a) Prepare six written copies of the agreement.

(b) Insure that all copies are signed by the adoptive parent(s) and the placing agency director or designee.

(c) Submit all copies to the State Adoption Unit for the Commissioner's approval.

(3) Upon Commissioner's approval, copies of the agreement shall be distributed to the adoptive parent(s) and placing agency. The State Agency shall establish an account to reimburse the adoptive parent(s), subsequent guardian or conservator upon the effective date of the agreement or, in instances when monthly payments are made, the month beginning closest to the effective date.

(4) The subsidy agreement shall continue in accordance with its terms as long as the need for subsidy continues and the child remains the legal dependent of the adoptive parent(s), subsequent guardian or conservator.

(5) The terms of the agreement shall be reviewed and appropriately modified when significant changes in the child's status occur.

(6) The parent(s) may request modification or termination of agreement at any time by ~~contacting~~ a written contact with the placing agency or the Commissioner.

(7) The adoptive parents have the right to appeal to the Commissioner pursuant to Minn. Stat. 256.045, when the Commissioner denies, discontinues, or modifies the agreement. The appeal shall be initiated by a written request to the Commissioner within thirty (30) days after receiving written notice of the action or decision from the Commissioner or within ninety (90) days if the parent(s) show good cause why the request was not submitted within the thirty (30) day time limit.

f. Subsidy payments received according to the terms of the agreement, shall not affect eligibility for any other financial payments (i.e., social security, veterans, or other benefits) to which a person may otherwise be entitled.

g. The placing agency shall receive a reimbursement from the Commissioner equal to 100% of the reasonable and appropriate cost of providing or purchasing adoption services for a child certified as eligible for a subsidy, including when necessary adoptive family recruitment, counseling, special training and legal fees for finalization. The criteria for reimbursement are:

(1) The child meets the certification requirements of C.4.c.

(2) The child has achieved either an adoptive placement or a legal adoption prior to the agency claim for reimbursement.

(3) The placing agency has determined that either partial or full cost of providing or purchasing the adoption services is not reimbursable under other state and federal financial programs.

(4) The placing agency shall submit purchase of service agreements to the Commissioner for approval and for review of anticipated expenses.

(5) The placing agency shall notify the State Adoption Unit in writing when the agency anticipates that its expenses may exceed $3,000 for adoption services on a child certified as eligible for subsidy.

(6) The placing agency shall submit an itemized statement of expenses to the State Adoption Unit for reimbursement prior to June 30 of each fiscal year.

(a) The itemized expenses shall not exceed the prevailing costs for similar services to children under agency care.

(b) The Commissioner shall reimburse the placing agency for 100% of the expenses that are not reimburseable under other state and federal programs.

h. The Commissioner shall work with American Indian child adoption organizations able to be licensed as child placing agencies. American Indian children, who are protected under the Federal Indian Child Welfare Act of 1978 (25 U.S.C. §19 et seq.) and who are certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts or a licensed Indian child placing agency.

REQUEST FOR STATEMENT OF NEED AND REOSONABLENESS

9/10 Wayne Munday, Hennepin County Bur. of S.S.

Jim Lee*, Legal Assistance of Ramsey County, 370 Selby Ave., St. Paul, Mn. 55102

* Requests notification when the hearing file is submitted to A.G.

9/11 Del Brakke - Rock County Social Service

9/15 Comments received from Big Stone County Family Service center objecting to agency reimbursement.

9/15 Comments from Marge Mereen, CHSM

10/6 Comments received from Lew Miller, Gov. Pl. Comm on Dev. Disabl.



Minnesota Governor's Planning Council on Developmental Disabilities

DEVELOPMENTAL DISABILITIES PLANNING OFFICE OF THE STATE PLANNING AGENCY
200 CAPITOL SQUARE BLDG. • 550 CEDAR STREET • ST. PAUL, MN 55101 • 612-296-4018

October 6, 1980



Ms. Ruth Weidell
Adoption Unit
Department of Public Welfare
Centennial Building
St. Paul, Minnesota 55155

Dear Ms. Weidell:

The Governmental Operations Committee of the Governor's Planning Council on Developmental Disabilities met recently to review the proposed Amendment of 12 MCAR 2.200 Governing Adoption. I am submitting comments on behalf of the committee.

1. Page 1, item A.2.J. How is the word planning to be defined?

2. Page 10, item d (2). How will the placing agency determine medical costs? What happens if the adoptive parent (s) disagree (s) with the type of medical care being proposed.

3. Page 11. Add on item (5) Appeal Procedure for items (1) Maintenance (2) Medical, (3) Special Costs (4) agency record and subsidy agreement.

4. Page 12, items (ii) (iii) (iv); page 13, item (vi), page 14, item (iv) and page 15, item (6) all relate to providing information. None of the items specify whether the information is to be provided orally or in writing. The committee strongly recommends that the information required by the items cited above should be in writing.

5. Page 12, item (v). What does available mean; at what cost to the adoptive parents?

6. Page 13, item (viii). How is, "within the parameters of the agreement" to be interpreted? It would be helpful if the model agreement were attached to the rule or all of the items contained in the agreement were discussed in one section of the rule rather than scattered throughout the rule.

7. Page 15, item (7). Under what circumstances may the Commissioner deny, discontinue or modify the agreement?



Your consideration of the comments outline is appreciated.

Sincerely,

Lew Miller

Lew Miller
Acting Executive Director
Minnesota Governor's Planning Council on Developmental Disabilities

LM:sm

TO: Bob Hamper 9-9-80

On 9-8-80 I mailed out the notice and proposed rule on subsidized adoption to:

12 - licensed child placing agencies which handle adoptions.
6 - Citzen advocacy groups.
9 - Subsidized adoption Task Force members.
27

Ruth Weidell
Adoption Unit



BIG STONE COUNTY FAMILY SERVICE CENTER
340 N.W. 2ND ST. P. O. BOX 338
ORTONVILLE, MINNESOTA 56278

September 9, 1980

Ms. Ruth Weidell
Adoption Unit
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Dear Ms. Weidell: Re: Proposed Rule 200

That portion of the Proposal dealing with reimbursing the placing Agency with certain costs relative to providing or purchasing adoption services concerns me.

In that those agencies trained and licensed to provide adoptions should be providing such services as recruitment, counseling, etc., I do not feel that they should be reimbursed for those ongoing activities. Specifically, I am concerned that subsidation funding might be untilized to defer administrative expenses of the agency.

In that subsidized fundings are currently completely appropriated, I feel that a strong case case has been presented for the necessity of all subsidized adoption funding to go directly to the client.

In conclusion, therefore, I recommend that those paragraphs concerning payment for administrative expenses be deleted.

Sincerely,

Dale L. Szyszka
Director

DLS:dkh



Children's Home Society of Minnesota

2230 COMO AVENUE • ST. PAUL, MINNESOTA 55108 • (612) 646-6393

Richard G. Plufka, *President* Roger W. Toogood, *Executive Director*

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SEP 1980
SOCIAL SERVICES

September 15, 1980

Ruth Weidell
Adoption Unit
Minnesota Department of Public Welfare
4th Floor-Centennial Building
St. Paul, Minnesota 55155

Dear Colleague:

Many thanks and much appreciatiation are due you for your very excellent work on the subsidized adoption rule. Various members of our staff have shared their responses and comments on the final rule with me and I will attempt to summarize them in this letter.

On Page 4

3. Child Placement

a. Preplacement activities: This section seems to include some unnecessary details which appear to be directed toward specific (and historic) kinds of adoption. The variety of adoptions practiced today necessitates that these decisions be made by social workers on an individual basis and geared to best meeting the needs of the child. For example, the need of the social worker for the adoptive parents to visit the child in his foster home is not always accomplished in practice, most often due to the decision of the child's social worker that this is unneccessary and/or undesireable. The need for the adoptive family to visit at least two days in the child's community, or the waiver of this requirement due to a need for prompt placement, seems to be a practice not often followed in today's adoptive situations. Nor is it always the Child's social worker who provides the birth-parent's confidential genetic and health history.

On Page 7

4. Subsidized Adoption-Certification of a Child's eligibility for subsidy. Perhaps it would be helpful to further clarify that children other than those with medical needs may be appropriate candidates for certification. In practice, our experience has been that the typical placing agency can easily view children with medical needs as potentially certifyable, (as they did under the previous rule.) They appear to not even consider certain children as potentially certifiable; specifically, older children in general good health, but with many enotional needs. These children should be viewed as having special needs in terms of the extremely high costs involved in post-placement and post-adoptive services necessary to insure their adoptability.

AN ACCREDITED MEMBER OF

THE COUNCIL ON ACCREDITATION OF SERVICES FOR FAMILIES AND CHILDREN

MEMBER

CHILD WELFARE LEAGUE OF AMERICA

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GROUP HOMES
Mary Lou Gladhill

POST-LEGAL ADOPTION COUNSELING
Marietta Spencer

PREGNANCY COUNSELING
Jane Bose

On Page 8
(b.) could be amended to include "extensive/intensive pre-adoptive, post-placement, and post-adoption counseling services and other costs necessary for the child's care and well-being".

We hope that our comments may be given consideration in the final refinement of the rule.

Sincerely,

Marjorie Mereen

Marjorie Mereen, ACSW
Social Worker

MM:jh

2. Review and award of grants to be awarded during all fiscal years other than the one described in G.1. [reserved].

H. Grant agreement.

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with E.1.d. of this rule.

2. The grant agreement shall establish the term of the grant. All grants awarded under this rule shall have a maximum term of one year.

3. Grants not being completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

4. The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs, in a manner described in the grant agreement, and shall require that ten percent of each payment made under the grant agreement be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld ten percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

5. The grant agreement shall provide that, subject to the approval of the director, the grantee shall be authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall further require that all such contracts name the agency as a third-party beneficiary to that contract.

I. Apportionment.

1. For grants to be awarded during the fiscal year ending June 30, 1981, the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. §§ 115A.42 through 115A.54 (1980), as follows:

a. Article V grants (grants awarded under these rules): forty percent of the amount appropriated to the agency; and.

b. Article VI grants (grants awarded under other rules): sixty percent of the amount appropriated to the agency.

c. If the agency receives more eligible requests for grant assistance under Article V than the agency has funds available and the agency receives less eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. Similarly, if the agency receives less eligible requests for grant assistance under Article V than the agency has funds available and more eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. No such adjustment shall be made until the last date that final grant applications are permitted to be submitted to the agency under this rule and the rule developed to implement Article VI of the Waste Management Act.

2. For grants to be awarded during all fiscal years other than that described in paragraph I.1., the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. § 115A.42 through 115A.54 (1980), as follows: [reserved].

J. Severability. If any provision of this rule or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of any other part of this rule or any other rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule and the various applications thereof are declared to be severable.

Department of Public Welfare
Bureau of Social Services

Proposed Amendments to Rule Governing Subsidized Adoption

Notice of Intent to Adopt Amendments to A Rule without a Public Hearing

Notice is hereby given that the Department of Public Welfare is proposing to adopt amendments to the attached adoption rule (12 MCAR § 2.200).

All persons have 30 days from the date of this notice in which to submit comments on the proposed rule amendment. All written comments will be reviewed by the Department of Public Welfare and, if no hearing is required, then by the Office of the Attorney General, Administrative Division. The rule may be modified based upon the data and views submitted.

Any person may also, within the 30 day period, make a written request for a public hearing on the rule. If seven or more persons make a written request for a hearing on the rule, a public hearing will be held according to the provisions of Minn. Stat. § 15.0412.

Persons desiring to make written comments on the rule or desiring to make a written request for a public hearing on the rule should address their correspondence to:

Ruth Weidell
Adoption Unit
Department of Public Welfare
Centennial Building
St. Paul, MN 55155
(612) 296-3740

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Department of Public Welfare. This Statement of Need and Reasonableness includes rationale justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from Ruth Weidell, Department of Public Welfare.

If you have questions on the content of any of the rules, please call Ruth Weidell at 612/296-3740.

Persons desiring to be notified when the hearing file (the proposed rule, this Notice, the rule proposed to be adopted, the Statement of Need and Reasonableness and copies of the public comments) is submitted to the Attorney General, Administrative Division, may either call or write Ruth Weidell. The Attorney General shall approve or disapprove the rule as to form and legality and determine whether a substantial change has been made in the rule to be adopted.

The Department's authority to adopt the proposed rule is contained in Minn. Stat. § 259.45, subd. 10, (Supp. 1979).

Below are some of the highlights and background to the proposed rule amendments:

From 1969 to 1979, the 87 county social service agencies administered the subsidized adoption program for state wards adopted by families who could not meet special needs costs. Not many wards were adopted under this statute. The 1979 Legislature repealed that subsidy statute and enacted a state-administered subsidy program. An appropriation of $500,000 was made for the biennium.

There were about 223 subsidized adoptions existing when the new law went into effect July 1, 1979. A policy bulletin was issued in August, 1979 to maintain and transfer extant subsidized adoptions and to facilitate new subsidized adoptive placements. A temporary rule was adopted March 13, 1980 with the time extended to the maximum 180 days to work toward permanent rule.

The basic purpose of the new legislation is to ensure the adoption of Minnesota children who are under guardianship of an agency and have special needs. The children have maintenance, medical or other special costs which would prohibit their opportunity for adoption if a subsidy were not available.

The provisions in rule establish the standards and procedures for agencies to implement the statute. The placing agency responsible for the child must document the facts upon which the agency certifies to the commissioner the child's eligibility for subsidy.

The agency must determine the amount of subsidy the child needs by considering what other financial and health resources and benefits are available to the child. The adoption subsidy is determined by the amount of maintenance, medical or other costs necessary to the child's care and well-being and not covered by other resources.

After documenting the child's needs and the amount of the subsidy, the agency prepares the agreement, specifying the terms, the effective date, and the duration of the agreement. This agreement sets forth the responsibilities of the placing agency, the adoptive parents and the Commissioner of Public Welfare. The adoptive parents agree to submit an annual affidavit concerning the child's continued care and need for subsidy. The parents also agree to notify the commissioner of any changes which affect the amount of the subsidy.

The placing agency agrees to assist the commissioner or the adoptive parents, subsequent guardian or conservator, in the review or modification of the agreement.

The commissioner agrees to make payments as specified in the agreement unless terminated at the request of the adoptive parents, subsequent guardian or conservator, regardless of their residence or domicile.

When the terms and duration of the subsidy are agreed upon, the adoptive parents and the placing agency director or designee sign all copies of the agreement which are then submitted to the State Adoption Unit for the commissioner's approval.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

The adoptive parents may request modification or termination of the agreement at any time. They have the right to appeal by written request to the commissioner when the commissioner denies, discontinues or modifies the agreement. Subsidy payments received shall not affect a person's eligibility for other financial payments to which the person may be entitled.

The rule also addresses subsidy reimbursement to the placing agency which provides or purchases adoption services for a child certified as eligible for a subsidy. Reimbursement is to be made for partial or full cost that is not reimbursable under other state or federal programs.

The rule includes the definitions of placing agency and "subsidized adoption." It also states that the commissioner shall work with American Indian adoption agencies able to be licensed. American Indian children certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts or a licensed Indian child placing agency.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption.

September 8, 1980

Arthur E. Noot, Commissioner
Department of Public Welfare

Permanent Rule as Proposed

12 MCAR § 2.200 Adoption.

A. Introduction.

2. Definitions.

j. Placing agency: The Minnesota licensed child placing agency which has guardianship of a child from a Minnesota court or the local social service agency which has financial responsibility for a ward of the Commissioner of Public Welfare. The placing agency retains planning responsibility for the child even though another agency is supervising.

k. ~~j.~~ Post-placement services: Social services provided to the child and the adoptive parents from the time of placement until legal adoption.

l. ~~k.~~ Post-adoption services: Social services provided after legal adoption to the adoptive parents, genetic parents or adopted individuals.

m. ~~l.~~ Relative: An individual who is related to a child within the third degree according to the Civil Table of Consanguinity by blood, marriage or adoption as a parent, stepparent, brother, sister, grandparent, great grandparent, aunt, uncle, niece or nephew.

n. ~~m.~~ State Adoption Exchange: The central adoptive home and child registration service operated by the Minnesota Department of Public Welfare's adoption unit for use by authorized child-placing agencies.

o. ~~n.~~ State agency: The Commissioner of Public Welfare or the Minnesota Department of Public Welfare.

~~o. Subsidized adoption: An adoptive placement in which a contract provides that financial reimbursement will be made to the adoptive parents with financial needs for a child who has special needs.~~

p. Subsidized adoption: An adoption in which an agreement provides that financial payments shall be made to the adoptive parent(s), subsequent guardian or conservator because of special needs of a child who is certified as eligible for subsidy.

q. ~~p.~~ Suitability study: The pre-adoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational and health needs of a particular child.

C. Services for children freed for adoption.

1. State Adoption Exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the commissioner. This provision shall not apply to the licensed child placing agencies, Hennepin, Ramsey, or St. Louis Counties, whose use of the exchange is optional.

a. The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, racial or religious heritages, and health, social, and educational needs.

b. The local social service agency shall make reasonable efforts to provide and preserve the child's heritage by placing the child:

(1) In an adoptive home of similar background; or

(2) In an adoptive home which is knowledgeable and appreciative of the child's heritage.

2. The child's foster home. The local social service agency may consider the foster home in which the child is currently living as a potential adoptive resource for the child.

a. In such cases, at least one of the following criteria shall apply:

(1) The child has special needs (physical and mental health, education or social) which the foster family will be able to adequately meet.

(2) The child is older than an infant, has lived at least twelve consecutive months in the foster home, and is an integrated member of the foster family.

(3) The foster family will be able to accept the child and his background and help the child understand his adoption.

(4) The foster family is either the best adoptive resource for the child or is at least comparable to available resources.

b. Except in Hennepin, Ramsey and St. Louis Counties, a joint decision between the state agency's adoption unit and the local social service agency as to whether the foster home would be a suitable adoptive home for the child shall be made. The decision shall be based upon:

(1) The local social service agency's written statement and recommendation to the state agency identifying applicable criteria; and

(2) The state agency's written response either approving or disapproving the recommendation.

c. Where a licensed child-placing agency, which is supervising a child under state guardianship, wishes to consider the foster home as the adoptive resource for the child, it shall obtain approval from the local social service agency which has financial responsibility.

3. Child placement. The following policies shall govern the local social service agency's child-placing activities:

a. Preplacement activities:

(1) The social worker assigned to the adoptive home shall, prior to the child being placed in the adoptive home, visit the child in his foster home. This preplacement visit may only be waived if the child is under six months of age and is without special needs.

(2) The child's social worker shall provide the adoptive parents with a written genetic and health history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

(3) An adoptive family shall spend at least two days in the child's community becoming acquainted with the child prior to the transfer of physical custody from the agency to them. This provision may be waived in the discretion of the agency, where extraordinary circumstances dictate prompt placement.

~~4. Subsidized adoptions. Subsidized adoption is available through the local social service agency for a child under state guardianship who is not readily adoptable because of special needs (due to age, race, physical, mental, or emotional conditions, his membership in a sibling group) and whose prospective family is unable to adopt him due to financial limitations.~~

~~a. The amount of the maintenance subsidy paid by the local social service agency shall not exceed the county welfare or human service board's schedule of regular or special rate payments for a child in foster care.~~

~~b. The amount of a health subsidy shall include the estimated cost for medical and health care, treatment and/or therapy.~~

~~c. A subsidized adoption contract shall be reduced to writing on the local social service agency's official stationery, signed by all relevant parties and approved by the Commissioner prior to legal adoption.~~

~~(1) Once fully executed and approved, all parties shall be given copies of the contract.~~

~~(2) A copy of the contract is to be filed with the proper court prior to the time the adoption matter is heard.~~

~~(3) The contract shall remain in effect even though the family moves out of the State of Minnesota.~~

~~(4) The contract shall be reviewed annually by the subsidizing county welfare or human service board to determine whether significant changes have occurred in the needs of the child or the financial resources of the parents which require amendment of the contract.~~

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~~(5) The adoptive parents have the right to appeal to the Commissioner pursuant to Minn. Stat., ch. 15, when the county welfare or human service board denies, discontinues or modifies the contract.~~

~~d. The local social service agency is entitled to seek reimbursement of its subsidy expense from the State's Child Welfare Fund up to the legislatively authorized percentage.~~

~~e. The following procedures shall be implemented when initiating an adoption subsidy:~~

~~(1) When considering the child's need for subsidy:~~

~~(a) Review the child's eligibility for alternative financial and/or medical resources;~~

~~(b) Process through the State Adoption Exchange for a review of suitable homes; and~~

~~(c) Utilize the public media to recruit adoptive resources.~~

~~(2) When attempting to establish the amount of subsidy:~~

~~(a) Determine the amount of the child's financial and medical benefits, if any;~~

~~(b) Determine the family's financial and medical resources for meeting the child's special needs; and~~

~~(c) Obtain preliminary approval from the county welfare or human service board for a medical and/or maintenance subsidy.~~

~~(3) Each subsidized adoption contract shall include:~~

~~(a) A statement of the purpose of the agreement; maintenance, medical and/or special needs of the child;~~

~~(b) The arrangements for payment and receipt of the subsidy.~~

4. Subsidized adoptions. This section provides standards for determining a child's eligibility for subsidy and the criteria for establishing the terms of the subsidy agreement. Subsidized adoption is based upon the needs of the child who is certified as eligible for subsidy and is available through the Commissioner of Public Welfare for a child under legal guardianship of the commissioner or licensed child placing agency. The commissioner may review and verify the facts upon which the child's eligibility is based.

a. The placing agency shall document in the child's case record all facts upon which the agency certifies the child as eligible for subsidy.

b. The placing agency may determine that subsidy is needed for children placed as sibling groups, children who are entitled to placement with a family of similar ethnic background (i.e., American Indian, Black, Hispanic, Asian), and children with special needs, for whom adoptive homes are not readily available. Special needs include medical, dental and surgical expenses, psychiatric and psychological expenses, maintenance costs, and other costs necessary for the child's care and well-being.

c. The placing agency shall certify the child as eligible for subsidy when the following criteria are met:

(1) The child is a Minnesota resident and a ward of the commissioner or licensed child placing agency.

(2) The agency shall make an early determination on the availability of a home without subsidy, preferably within two months of the child becoming legally available for adoption.

(3) A child shall be eligible for subsidized adoption by his/her foster parents if the following criteria are met and documented:

(a) The child's foster parents desire to adopt the child, and

(b) The agency determines the adoption is in the best interest of the child, according to the criteria established in C.2. of this rule, and

(c) The child's circumstances or characteristics make it difficult for the agency to provide the child a home without a subsidy; or

(4) The placing agency has made reasonable efforts without success to place the child without subsidy. Such efforts include the following:

(a) The agency shall register the child on the State Adoption Exchange to obtain adoptive home referrals.

(b) The agency shall contact Hennepin, Ramsey, St. Louis Counties and Minnesota-based licensed child placing agencies to seek potential adoptive homes.

(c) The agency may use photo listing services, adoption exchange services, newsletters or other special efforts to secure a home.

(5) When the child is placed into a prospective adoptive home without a subsidy but the need for subsidy becomes

evident prior to legal adoption, the placing agency shall apply the criteria in C.4.c.(1) and (3) to determine the child's eligibility for subsidy.

(6) The placing agency shall certify to the commissioner, in writing under its director's or designee's signature, the child's eligibility for subsidy. The statement shall include the conditions or circumstances upon which the child's eligibility is based.

d. When determining the amount of subsidy, the placing agency shall consider the financial resources, social security and veterans benefits, health insurance coverage, medical assistance programs, and other resources available or which may be available to the child.

(1) Maintenance. Maintenance payments shall be provided as necessary to ensure the adoption of a child. The placing agency shall refer to DPW Rule 44, 12 MCAR 2.044, to determine the amount of a child's monthly maintenance needs for food, clothing allowances, supplies and transportation. The total monthly maintenance payments may be less than, equal to or more than the basic rate. Amounts greater than the basic rate shall be set according to the difficulty of care standards and the need for the greater amount shall be documented.

(2) Medical. The placing agency shall determine the medical, dental, surgical, psychiatric, and psychological expenses, and other related costs necessary for the child's care and well-being. In determining the costs, the placing agency shall identify the child's circumstances or conditions that require subsidy. The placing agency shall:

(a) Document the kind and amount of health insurance or other medical financial resources available to meet the needs of the child.

(b) Document the actual or estimated expenses for medical, dental, surgical, psychiatric, psychological or other related needs of the child which are not covered by health insurance and/or other alternative financial or medical resources.

(3) Special costs. The placing agency shall determine whether other costs not included in (1) and (2) of this section are necessary for the child's care and well-being. The placing agency shall specify the child's needs and document the actual or estimated expenses required to meet that need.

(4) The agency record and the subsidy agreement shall include all relevant facts upon which subsidy payments are based, the amount and frequency of payments. If the amount and frequency of payments are unknown, estimates and the basis for them shall be included.

e. The placing agency shall prepare in writing the Subsidized Adoption Agreement clearly setting forth the responsibilities of all the parties and the terms and duration of the agreement.

(1) The agreement shall state the responsibilities of the parties as follows:

(a) The adoptive parent(s), or in the event of their death or inability to function as parent(s), the subsequent guardian or conservator, shall agree to:

(i) Submit to the commissioner a written statement each year within thirty (30) days of the anniversary date of the approved agreement to certify whether the child remains under their care and the need for subsidy continues to exist.

(ii) Notify the commissioner within thirty (30) days in the event of change in status and its effect on the expenses covered by the subsidy:

(aa) Marriage of child or parent.

(bb) The child's absence from the home by court action or for any reason for a period of more than thirty (30) days.

(cc) Death of child or parent.

(dd) Legal emancipation of the child.

(iii) Notify the commissioner within thirty (30) days of any change which may affect the duration or amount of the subsidy needed.

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(iv) Notify the commissioner within thirty (30) days of a change in address to ensure proper mailing of payments.

(v) Participate in and use health insurance and financial programs available for the child.

(vi) Notify the commissioner at least thirty (30) days before a planned medical or special expense is incurred to ensure prompt payment after expense statements are submitted to the commissioner.

(vii) Notify the commissioner soon after an emergency of the anticipated cost so that the commissioner may begin to budget for that expense.

(viii) Submit expense statements to the commissioner to receive subsidy payments for incurred costs over and above agreed upon monthly payments, but within the parameters of the agreement.

(b) The placing agency shall agree to:

(i) Specify in the agreement:

(aa) The terms and duration of the subsidy as defined in C.4.d.

(bb) The effective date of the agreement which shall be the date of legal adoption. When the child's needs cannot be met by state and federal programs or other available resources prior to legal adoption, the commissioner shall establish an earlier effective date between the child's placement in the adoptive home and legal adoption.

(ii) Assist the parent(s), subsequent guardian or conservator in the review or modification of the agreement.

(iii) Assist the commissioner in the review or modification of the agreement.

(c) The commissioner shall agree to make financial payments to the adoptive parent(s), subsequent guardian or conservator, as follows:

(i) Payments regardless of the domicile or residence of the adopting parent(s), subsequent guardian or conservator at the time of application for adoptive placement, legal decree of adoption, or thereafter.

(ii) Monthly payments for the agreed upon maintenance costs and other regular costs as specified in the agreement.

(iii) Payments based upon the expense statements received from the adoptive parent(s), subsequent guardian or conservator for the child's medical or special expenses which are within the parameters of the agreement.

(iv) Payments may be terminated at the request of the adoptive parents, subsequent guardian or conservator.

(2) When the terms and duration of the subsidy are agreed upon by the parties, the placing agency shall:

(a) Prepare six written copies of the agreement.

(b) Insure that all copies are signed by the adoptive parent(s) and the placing agency director or designee.

(c) Submit all copies to the State Adoption Unit for the commissioner's approval.

(3) Upon commissioner's approval, copies of the agreement shall be distributed to the adoptive parent(s) and placing agency. The state agency shall establish an account to reimburse the adoptive parent(s), subsequent guardian or conservator upon the effective date of the agreement or, in instances when monthly payments are made, the month beginning closest to the effective date.

(4) The subsidy agreement shall continue in accordance with its terms as long as the need for subsidy continues and the child remains the legal dependent of the adoptive parent(s), subsequent guardian or conservator.

(5) The terms of the agreement shall be reviewed and appropriately modified when significant changes in the child's status occur.

(6) The parent(s) may request modification or termination of agreement at any time by contacting the placing agency or the commissioner.

(7) The adoptive parents have the right to appeal to the commissioner pursuant to Minn. Stat. § 256.045, when the commissioner denies, discontinues, or modifies the agreement. The appeal shall be initiated by a written request to the commissioner within thirty (30) days after receiving written notice of the action or decision from the commissioner or within ninety (90) days if the parent(s) show good cause why the request was not submitted within the thirty (30) day time limit.

f. Subsidy payments received according to the terms of the agreement, shall not affect eligibility for any other financial payments (i.e., social security, veterans, or other benefits) to which a person may otherwise be entitled.

g. The placing agency shall receive a reimbursement from the commissioner equal to 100% of the reasonable and appropriate cost of providing or purchasing adoption services for a child certified as eligible for a subsidy, including when necessary adoptive family recruitment, counseling, special training and legal fees for finalization. The criteria for reimbursement are:

(1) The child meets the certification requirements of C.4.c.

(2) The child has achieved either an adoptive placement or a legal adoption prior to the agency claim for reimbursement.

(3) The placing agency has determined that either partial or full cost of providing or purchasing the adoption services is not reimbursable under other state and federal financial programs.

(4) The placing agency shall submit purchase of service agreements to the Commissioner for review of anticipated expenses.

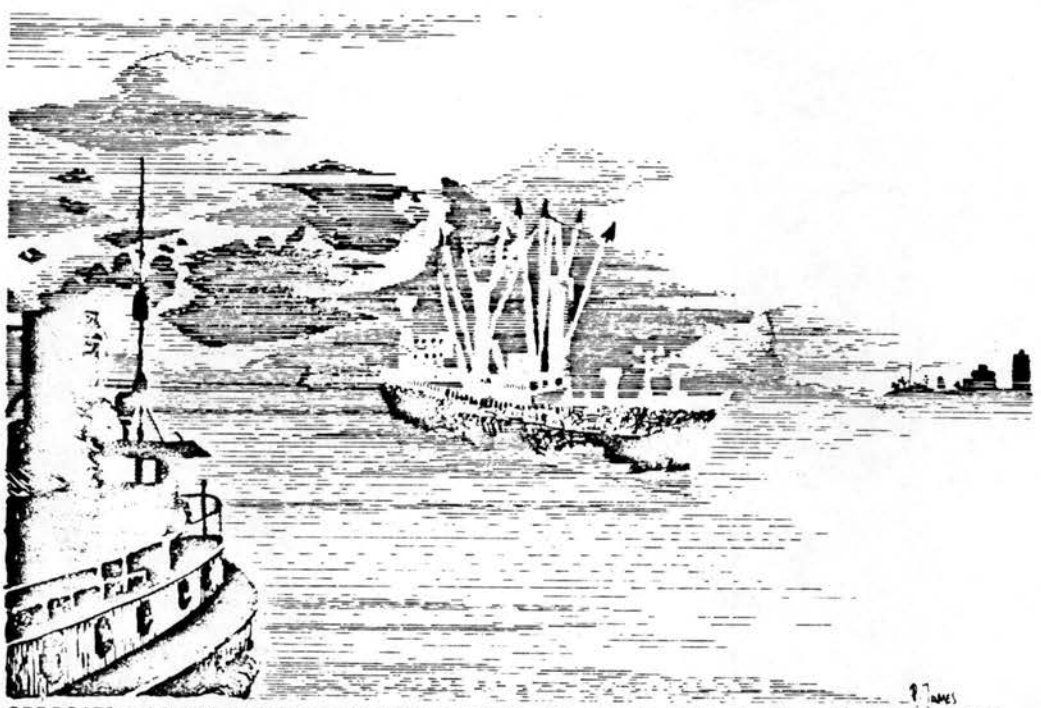
(5) The placing agency shall notify the State Adoption Unit in writing when the agency anticipates that its expenses may exceed $3,000 for adoption services on a child certified as eligible for subsidy.

(6) The placing agency shall submit an itemized statement of expenses to the State Adoption Unit for reimbursement prior to June 30 of each fiscal year.

(a) The itemized expenses shall not exceed the prevailing costs for similar services to children under agency care.

(b) The commissioner shall reimburse the placing agency for 100% of the expenses that are not reimburseable under other state and federal programs.

h. The commissioner shall work with American Indian child adoption organizations able to be licensed as child placing agencies. American Indian children, who are protected under the Federal Indian Child Welfare Act of 1978 (25 U.S.C. § 19 *et seq.*) and who are certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts or a licensed Indian child placing agency.



ORE BOATS, or lakers, have been a familiar sight on Lake Superior since the 1890s when the first train loaded with iron ore rolled into Two Harbors, Minnesota. Last year, 7.7 million tons of iron ore left the Port of Duluth-Superior for steel manufacturing centers on the lower Great Lakes. Another 20-30 million tons were shipped from the ports of Two Harbors, Silver Bay and Taconite Harbor. (Drawing by Ric James)

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STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General Beverly Heydinger, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Beverly Jones Heydinger

BEVERLY HEYDINGER
Special Assistant
Attorney General

Dated: November 10, 1980

RECEIVED

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE



IN THE MATTER OF THE PROPOSED AMENDMENT OF 12 MCAR 2.200 GOVERNING THE ADMINISTRATION OF THE SUBSIDIZED ADOPTION PORTION OF THE ADOPTION RULE.

STATEMENT OF NEED AND REASONABLENESS

In the 12 MCAR 2.200 portion on subsidized adoption the Department of Public Welfare sets standards for the administration of Minn. Stat. 259.40 on subsidized adoption which became effective July 1, 1979. Minn. Stat. 259.40 repealed a previously existing subsidy statute, Minn. Stat. 393.07, Subd. 1a. This statute had been enacted in 1969 and provided for subsidies to be made by the county welfare board to families adopting dependent/neglected state wards needing maintenance or medical financial assistance. The county welfare board could then claim partial reimbursement from the Commissioner out of the Commissioner's child welfare fund.

In the ten years since Minn. Stat. 393.07, Subd. 1a became law, only 207 state wards with special needs were adopted with subsidy out of an annual total of over 1,000 who continued to reside in foster care. Administration of the subsidy law varied from county to county with the result that some wards needing a subsidized adoption were not adopted. Another potential barrier to adoption arose when more than one agency was involved in planning adoption for a state ward needing subsidy. Disagreements in providing a subsidy resulted in either months of negotiation or a stalemate. The fact that the county had to assume the major portion of the subsidy cost while losing most of the state and all of the federal participation was clearly a disincentive to use subsidized adoption.

In 1978 the Hennepin County Children and Youth Crisis Foster Care Task Force studied children under state guardianship in need of adoption with a subsidy. A copy of the report is attached and marked Exhibit A. The study recommended legislative amendments which would bring about major changes in the program in the following ways:

1. Subsidy would be based on the needs of the child rather than the financial needs of the adoptive parents.

2. There would be better guarantees of continuation of the subsidy payments.

3. The state would provide a significant incentive to counties to move foster children into adoptive homes by paying 100% of the cost of subsidized adoption.

4. The state would provide 100% reimbursement directly to licensed placement agencies for the cost of recruitment and placement services for subsidized adoptive placement.

5. Uniformity of administration would be improved by transferring the responsibility for approving subsidy agreements and making payments from county government to the state government.

6. The current prohibition against payment of subsidies during the first six months of the adoption would be eliminated.

The deficiencies existing under the former law discouraged the adoption of state wards needing permanent homes thereby encouraging children to grow up in foster home placements. The Hennepin County Task Force took leadership in getting the legislation introduced and engaged broad statewide support from public and private associations and agencies concerned with child welfare matters.

Unlike the former statute, Minn. Stat. 259.40, centralizes both the administration and the funding; it requires rules; it focuses on the Minnesota resident child who is a ward of the Commissioner or a licensed child placing agency, and it establishes the basic criteria for agencies to certify when a child is eligible for subsidy.

The Department of Public Welfare established a task force to assist in: 1) ensuring continuity of payments for children previously subsidized under the repealed statute, 2) developing policies to implement Minn. Stat. 259.40 between its effective date of July 1, 1979 and the issuance of a temporary rule by March 15, 1980, and 3) developing what standards and provisions should be included in the temporary rule which was formally adopted March 13, 1980, and in preparing the proposed permanent rule.

This rule is proposed to establish standards and procedures for the placing agency to: 1) determine a child's eligibility for subsidy; 2) determine the amount of the subsidy; 3) develop the subsidy agreement; and 4) claim reimbursement for adoption services provided a child eligible for subsidy. This rule also proposes standards and procedures which: 1) clarifies the effect of subsidy on other benefits to which a person may be entitled; and 2) requires the Commissioner of Public Welfare to work with American Indian child adoption organizations to ensure services to Indian children, including children eligible for subsidy.

The Department of Public Welfare will not be calling upon expert witnesses to give testimony on the provisions in the proposal permanent subsidized adoption rule.

The statement of need and reasonableness for this proposed rule follow section by section.

Section A. Introduction

Part 2. Definition - One new definition is added and an existing term is redefined in this part. These definitions are necessary to determine their meaning as used in this rule. They are also reasonable in that they reflect the meaning given to them in state statutes and rules.

Subpart j. Placing agency - It is necessary to define placing agency in order to establish which agency has primary planning responsibility for a child under guardianship by a Minnesota court. This includes Minnesota licensed child placing agencies. The meaning corresponds to the general responsibilities outlined in 12 MCAR 2.171 - Children Under State Guardianship, Exhibit B.

Subpart k, l, m, n, o, and q - There are no changes made except to assign new letters in these definitions for purposes of this rule.

Subpart p. Subsidized adoption - The definition is necessary to establish a framework on which this rule is based and it reasonably reflects the general provisions in Minn. Stat. 259.40.

Section C. Services to Children Freed for Adoption

Parts 1, 2, and 3 - These sections are not the subject of this rule but are included to provide continuity to and reference for Part 4.

Part 4. Subsidized Adoption - The state and placing agencies are required to determine and implement adoption subsidies for children. These are children who are legally free for adoption but whose special needs are a barrier to acquiring a permanent family through adoption. A child's special needs include sibling groups, physical, mental and emotional handicaps, age, ethnic or racial heritage. Any of these needs require careful selection of a suitable family whose resources to meet these needs may or may not be limited. This section establishes standards, criteria and procedures necessary for agencies to determine which children need subsidy.

Subpart a. Documentation - Not all children under guardianship of the Commissioner or licensed child-placing agency are eligible for subsidy. Only those children who meet the eligibility requirements will be approved for subsidy. The placing agency, which has knowledge of the child's conditions and circumstances, makes the determination. That agency must then certify to the Commissioner that the child is eligible. Because certain steps for making the determination are required of the placing agency, its agency record must be fully documented and available for auditing by the Commissioner. The Commissioner has responsibility in administering the subsidized adoption program. Therefore, the placing agency's documentation of all facts upon which it bases a child's eligibility for subsidy is necessary and reasonable as it establishes the child's need in an accountable manner.

Subpart b. Determining child's need for subsidy - The placing agency has the knowledge, experience and authority to determine when the child's conditions or circumstances (i.e. health, ethnicity, sibling group membership et al) are barriers to locating a suitable adoptive home without a subsidy. The placing agency has at its disposal a variety of resources for recruiting, preparing or seeking a suitable adoptive home for a child with special needs. These resources may be within the agency itself - either the child's foster home or an approved applicant home. Other resources include the State Adoption Exchange, other licensed or public agencies, and/or use of special recruitment efforts. As a result of these efforts the agency will be able to determine whether the child can be placed without a subsidy. In instances where a child has physical, emotional or mental handicaps, an adoptive home suitable for this child may be found. However, subsidy may be needed because the family's health insurance will not cover the child's handicaps. The agency may decide this home should be used and will determine to what extent a medical subsidy is needed. Therefore, this provision is a necessary and reasonable expectation that the placing agency take responsibility for determining the child's need.

Subpart c. This section sets forth both the standards and procedures necessary for establishing the child's eligibility to receive a subsidy:

Standard (1): focuses on what group of Minnesota children may be considered; it excludes children who are under the jurisdiction and care of other states and countries or who are brought in from other countries for adoption by Minnesota residents. Minnesota has a history of providing adoptive homes for available children from other states and countries. The intent of the legislature was to focus on Minnesota children who are legally free but who are not readily being adopted. This standard is necessary to determine what group of children are being served.

Standard (2): Children grow and develop best in a stable family life where they can establish their roots. The Commissioner's Task Force determined that the placing agency had a responsibility to place a legally freed child into his adoptive home at the earliest possible date. When a child with special needs requires subsidy, the placing agency is still charged with the responsibility to place that child as soon as possible. Such efforts as early registration of the child on the State Adoption Exchange and telephone contacts with the Exchange and other agencies enable the placing agency to make an early determination on whether a subsidy will be needed for the child. This provision is necessary to encourage early determination of subsidy need so that a child is not denied placement for adoption.

Standard (3): For a child who has resided for some time with one foster family, agencies are encouraged to review the foster family's interest in adopting the child. It is not healthy for a child to be unnecessarily or repeatedly uprooted from the family in which he has established roots. The importance of this is emphasized in Beyond the Best Interest of the Child by Goldstein, Freud, and Solnit (The Free Press, New York, 1973). The proposed rule, therefore, sets the criteria in the rule for considering the child's foster home before the criteria of considering other homes. This standard is provided for in the statute and is necessary to reduce moving a child when it is not in his best interest.

Standard (4): The agency, in determining that adoption of the child by his foster parents is not in the child's best interest, must then seek adoptive homes through the State Adoption Exchange and other agencies. By checking into the adoptive home resources available through the State Exchange or other agencies, the placing agency may be able to find suitable homes in which a subsidy will not be needed. If no suitable homes are found, the placing agency has the option of utilizing special recruitment efforts to secure a home for the child. This standard is reasonable as it provides options in exploring adoptive resources in which a subsidy may not be needed.

Standard (5): In some instances a local social service or licensed child-placing agency has placed an apparently healthy child whose physical, mental or emotional problems become evident before legal adoption. Or a situation may arise where a major change occurs in the adoptive family, such as unemployment or disability of one parent,

affects the adoptive parents ability to support the child. In these circumstances a need for subsidy may arise. In such instances Criteria (5) provides for certifying as eligible for subsidy a child who is placed but not yet legally adopted. Therefore, Criteria (5) is necessary to avoid disrupting a child's adoptive placement.

Standard (6): The agency's certification to the Commissioner of a child's eligibility for subsidy must be a written document. This document must be signed by the director or someone he designates who has the knowledge and authority to do so. The agency certification must include statements on which the child's eligibility is based. The certification by the agency is required by statute and becomes part of the documentation on which the Commissioner is able to approve a subsidy agreement.

Standards (1) through (6) in this section are necessary and reasonable guidelines for the placing agency to certify the child's eligibility for subsidy. These criteria ensure a reasonable basis for the placing agency and the Commissioner to determine which children are in need of subsidy.

Subpart d. This section establishes the criteria for determining the amount of the subsidy. After determining a child's eligibility for subsidy, the placing agency must proceed to define the amount needed. Determining the amount of the subsidy depends upon the child's needs in relation to what other financial resources are available to the child:

Standard (1): It is assumed that most families who adopt children are able to support the child without a maintenance subsidy. This is more true of the applicant adoptive families than of foster families who adopt. The state's experience with subsidies over the past ten years show that many foster families who adopt the children in their homes have limited financial resources and need a maintenance subsidy. Some children who receive social security payments after adoption may also need a small maintenance subsidy to supplement the amount needed. Other children, with severe special needs (e.g. multiple handicaps, mental retardation), need the full basic foster care rate plus a difficulty of care maintenance.

In 12 MCAR 2.044 the Commissioner has established statewide rates for both basic foster care and difficulty of care rates based on the AFDC-FC rates set by the Federal Government. These are the State's standards for maintenance rates and are appropriate to be used for establishing subsidized adoption maintenance rates (Exhibit C). This standard conforms to Minn. Stat. 259.40, Subd. 2 which requires that subsidies be paid to meet the child's needs according to the Commissioner's prevailing foster care rates.

Therefore, the statewide schedule of rates for basic maintenance and difficulty of care provided in 12 MCAR 2.044 is reasonable and necessary reference for use in this rule in determining maintenance needs of a child needing subsidy.

Standard (2): This standard for determining health needs of the child requires the agency to state what health or other financial resources are available to meet the child's needs. The agency is required to document the actual or estimated expenses which need to be covered by a subsidy. A child may be covered in full, in part or not at all by the adoptive family's health insurance. If the child is eligible for special programs or other financial resources to meet medical needs, the amount of subsidy covers any unmet financial medical needs. It is necessary that the agency document the actual or estimated expenses so that the Department of Public Welfare is able to budget for upcoming expenses.

Standard (3): A particular child may have expenses which do not fall under maintenance or health. Special equipment, adjustments to the physical environment, travel expenses related to hospitalization are some examples that fall in a separate category. This provision is necessary as it meets the statutory requirement that the Commissioner pay other costs necessary to the child's care and well-being.

Standard (4): This standard requires the agency to include in both the subsidy agreement and the agency record all relevant facts upon which the subsidy is based. The subsidy agreement should conform to the facts documented in the agency record. The agreement, upon approval of the Commissioner, becomes the working document for use by the Commissioner, the family and the placing agency. If the subsidy agreement is not specific, the Commissioner will not be able to responsibly administer subsidy in meeting the needs of the child. This standard is therefore necessary and reasonable to ensure that the actual needs of the child are met.

Subpart e. The subsidized adoption agreement - The placing agency is required to prepare a written agreement in which the responsibilities of all the parties and the terms and duration of the subsidy are stated. The agreement, upon acceptance and approval of all the parties, becomes the working document for the Commissioner to make the subsidy payments. It is necessary and reasonable that this section specifies the content of the written agreement and the standards by which it becomes effective and modified.

Subpart e. is broken into seven standards:

Standard (1) has three subparts which state the responsibilities for the family, the placing agency and the Commissioner. These are necessary so that each party is clear about the respective responsibilities of the subsidy agreement. The subparts are as follows:

Subpart (a) establishes the responsibilities agreed to by the adoptive parents, the subsequent guardian or conservator. As required by Minn. Stat. 259.40, Subd. 3, the adoptive parents, subsequent guardian or conservator must file an annual affidavit to certify the child's continued need for subsidy. In addition the family agrees to notify the Commissioner within 30 days of any changes or modifications which affect the terms of the subsidy.

Subpart (b) states that the placing agency agrees to specify the terms, duration and effective date of the subsidy agreement. In addition, the agency agrees to assist the family or Commissioner in review or modification of the agreement when requested to do so by either party.

Subpart (c) specifies that the Commissioner agrees to make subsidy payments to the family as stated in the agreement and that such payments are made regardless of where the family resides.

All the requirements in standard (1) which include subparts (a) (b) and (c) are reasonable expectations of the three parties. They are necessary parts of the agreement upon which subsidy payments are made by the Commissioner to the family.

Standard (2) states the procedures necessary for the family and placing agency to prepare a written agreement ready for the Commissioner's approval.

Standard (3) states the necessary actions that the Commissioner needs to take to initiate the operation of the approved agreement. This standard requires the Commissioner to distribute the approved agreement to all parties, to establish and to disburse the subsidy payments.

Standard (4) requires that the subsidy payments must continue in accordance with the terms of the agreement so long as the child qualifies. It is a reasonable standard.

Standard (5) requires review and modification of the agreement as appropriate when significant changes occurred in the child's status. This is a reasonable and necessary requirement to assure that the child's needs continue to be met in a responsible and accountable manner.

Standard (6) allows the parents, subsequent guardian, or conservator to request modification or termination of the agreement at any time. This provision on rule underlines that right and is a necessary requirement of Minn. Stat. 259.40, Subd. 3.

Standard (7) states the right of the parents to appeal any modification, discontinuation or denial of the subsidy agreement when made by the Commissioner. The right to appeal is stated in Minn. Stat. 259.40, Subd. 6. This standard also includes the procedures for a family to initiate such an appeal and is a necessary standard in this rule.

All standards (1) through (7) under Subpart e. are reasonable and necessary for establishing the written agreement and making any changes in the responsibilities of the adoptive parents, placing agency and the Commissioner. Further, these standards state necessary procedures for implementing and modifying the agreement as well as procedures for appealing decisions made by the Commissioner. They are also required by statute.

Subpart f. Eligibility for other benefits - Subsidized adoption payments shall not affect eligibility for other benefits to which a person may otherwise be entitled. This provision in Minn. Stat. 259.40, Subd. 6 ensures that the child or members of his adoptive family will not have their eligibility for other financial programs determined by the fact the child is eligible for and receives a subsidy. The amount of subsidy for a child who is receiving other benefits is adjusted to cover unmet needs. It is necessary to include this statement in rule to underline this provision in the statute which has direct impact on the child and adoptive parents.

Subpart g. Agency reimbursement - A placing agency may receive 100% reimbursement for providing or purchasing adoption services for a child eligible for subsidy.

Subsidy reimbursement to agencies is to be limited to reasonable expense reimbursement. The following standards establish procedures for agencies to determine and request such reimbursement:

Standard (1) meets the statutory requirement in Minn. Stat. 259.40, Subd. 7 that the child is certified eligible for subsidy. It is a necessary standard.

Standard (2) requires that child be in an adoptive placement or is legally adopted before the agency may file a claim for reimbursement. This requires the agency to accomplish its efforts to provide adoptive services to the child and is a reasonable criteria for claiming reimbursement.

Standard (3) requires the agency to first seek reimbursement under other state and federal financial programs which are already available to meet agency staff and social service costs. Whatever is not otherwise covered may then be claimed under subsidy reimbursement. This requirement is necessary to ensure that the agency will receive reasonable payment for expenses not otherwise reimbursed when the agency must make special efforts to recruit and prepare an adoptive home for a child eligible for subsidy.

Standard (4) is a necessary requirement to enable the Commissioner to be involved in purchase of service agreements. Such involvement ensures that the purchase of service provisions conform to the intent of Minn. Stat. 259.40, Subd. 7. In addition the Commissioner is able to set up an account for the purchase of service agreement and to encumber funds to reimburse the agency on claims submitted against the agreement.

Standard (5) provides the Commissioner an opportunity to be notified in advance of upcoming large expenses. Advance notice will allow time for the Department of Public Welfare to: a) verify that the claim is indeed on an eligible child; b) set up an account if there is none out of which to reimburse the agency, and c) encumber funds in readiness for reimbursement to the agency upon receipt of the claim. This is a reasonable standard for the Commissioner to make responsive and prompt payments on valid claims.

Standard (6) requires an itemized statement which shows that reasonable expenses are being claimed. This standard also requires the Commissioner to reimburse reasonable claims at 100% as mandated by Minn. Stat. 259.40, Subd. 7.

The standards (1) through (6) in section g. are reasonable and necessary procedures for the placing agency to make reasonable claim and to receive reimbursement.

Subpart h. American Indian Children - This section requires the Commissioner to work with American Indian child adoption organizations in providing services to Indian children, including Indian children eligible for subsidy. This provision is necessary as it has a direct impact on services for American Indians. The Federal Indian Child Welfare Act of 1978 mandates that services which protect cultural and ethnic heritage be provided. This provision in statute underlines the federal mandate and is necessary for inclusion in this rule.

Arthur E Noot

ARTHUR E. NOOT
Commissioner

Dated: August 7, 1980

GS/gox

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE
PROPOSED AMENDMENT OF
RULE (12 MCAR 2.200)
GOVERNING ADOPTION

AFFIDAVIT OF MAILING

NOTICE OF SUBMITTAL
TO THE ATTORNEY GENERAL

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

That on the 12th day of November, 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 12 day of November,
1980.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

IN THE MATTER OF THE
PROPOSED AMENTMENT OF
RULE (12 MCAR 2.200)
GOVERNING ADOPTION

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 has been submitted to the Attorney General's Office on November 12th, 1980 for review as to form and legality. Pursuant to Rule ATTYGEN 305, any person may question the legality of the above-captioned rule within the (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, 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 rule before submission to the Attorney General you may contact Ruth Weidell, Adoption Unit, Department of Public Welfare, Centennial Building, St. Paul, MN 55155, (612) 296-3996.

Linda M. Nelson

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED)
AMENDMENTS TO 12 MCAR § 2.200)

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, on July 16, 1980, the Minnesota Department of Public Welfare submitted a request to the Chief Hearing Examiner for approval of the incorporation by reference of certain documents in rules to be proposed; and

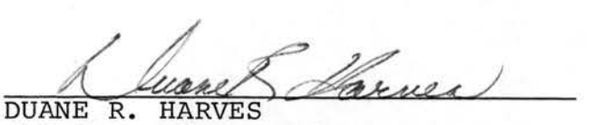
WHEREAS, pursuant to Minnesota Statutes 1978, Section 15.0412, subd. 4, agencies may incorporate by reference provisions of federal law or rule or other materials from sources which the Chief Hearing Examiner determines are conveniently available for viewing, copying and acquisition by interested persons; and

WHEREAS, the Chief Hearing Examiner has reviewed Rule 12 MCAR § 2.044 of the Minnesota Code of Agency Rules and the "Indian Child Welfare Act of 1978", Public Law 95-608 and has found them to be in excess of 3,000 words and has determined that they would exceed five pages of publication in the State Register; and

WHEREAS, the Chief Hearing Examiner finds that the documents are conveniently available for viewing, copying and acquisition by interested persons.

NOW, THEREFORE, IT IS ORDERED, that the Department of Public Welfare shall have the approval of the Chief Hearing Examiner to incorporate by reference the above-referenced documents in their proposed rules.

Dated this 22nd day
of July, 1980.



DUANE R. HARVES
Chief Hearing Examiner

State of Minneosta
Department of Public Welfare



IN THE MATTER
OF THE PROPOSED
AMENDMENT OF RULE
(12 MCAR 2.200)
GOVERNING ADOPTION

NOTICE OF INTENT
TO ADOPT A RULE
WITHOUT A
PUBLIC HEARING

Notice is hereby given that the Department of Public Welfare is proposing to adopt amendments to the attached adoption rule (12 MCAR 2.200).

All persons have 30 days from the date of this Notice in which to submit comments on the proposed rule amendment. All written comments will be reviewed by the Department of Public Welfare and, if no hearing is required, then by the Office of the Attorney General, Administrative Division. The rule may be modified based upon the data and views submitted.

Any person may also, within the 30 day period, make a written request for a public hearing on the rule. If seven or more persons make a written request for a hearing on the rule, a public hearing will be held according to the provisions of Minn. Stat. 15.0412.

Persons desiring to make written comments on the rule or desiring to make a written request for a public hearing on the rule should address their correspondence to:

Ruth Weidell
Adoption Unit
Department of Public Welfare
Centennial Building
St. Paul, MN 55155
612/296-3996

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Department of Public Welfare. This Statement of Need and Reasonableness includes rationale justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from Ruth Weidell, Department of Public Welfare.

If you have questions on the content of any of the rules, please call Ruth Weidell at 612/296-3740.

Persons desiring to be notified when the hearing file (the proposed rule, this Notice, the rule proposed to be adopted, the Statement of Need and Reasonableness and copies of the public comments) is submitted to the Attorney General, Administrative Division, may either call or write Ruth Weidell. The Attorney General shall approve or disapprove the rule as to form and legality and determine whether a substantial change has been made in the rule to be adopted.

The Department's authority to adopt the proposed rule is contained in Minn. Stat. 259.45, Subd. 10, (Supp. 1979).

Below are some of the highlights and background to the proposed rule amendments:

From 1969 to 1979, the 87 county social service agencies administered the subsidized adoption program for state wards adopted by families who could not meet special needs costs. Not many wards were adopted under this statute. The 1979 Legislature repealed that subsidy statute and enacted a state-administered subsidy program. An appropriation of $500,000 was made for the biennium.

There were about 223 subsidized adoptions existing when the new law went into effect July 1, 1979. A policy bulletin was issued in August, 1979 to maintain and transfer extant subsidized adoptions and to facilitate new subsidized adoptive placements. A temporary rule was adopted March 13, 1980 with the time extended to the maximum 180 days to work toward permanent rule.

The basic purpose of the new legislation is to ensure the adoption of Minnesota children who are under guardianship of an agency and have special needs. The children have maintainance, medical or other special costs which would prohibit their opportunity for adoption if a subsidy were not available.

The provisions in rule establish the standards and procedures for agencies to implement the statute. The placing agency responsible for the child must document the facts upon which the agency certifies to the Commissioner the child's eligibility for subsidy.

The agency must determine the amount of subsidy the child needs by considering what other financial and health resources and benefits are available to the child. The adoption subsidy is determined by the amount of maintenance, medical or other costs necessary to the child's care and well-being and not covered by other resources.

After documenting the child's needs and the amount of the subsidy, the agency prepares the agreement, specifying the terms, the effective date, and the duration of the agreement. This agreement sets forth the responsibilities of the placing agency, the adoptive parents and the Commissioner of Public Welfare. The adoptive parents agree to submit an annual affidavit concerning the child's continued care and need for subsidy. The parents also agree to notify the Commissioner of any changes which affect the amount of the subsidy.

The placing agency agrees to assist the Commissioner or the adoptive parents, subsequent guardian or conservator, in the review or modification of the agreement.

The Commissioner agrees to make payments as specified in the agreement unless terminated at the request of the adoptive parents, subsequent guardian or conservator, regardless of their residence or domicile.

When the terms and duration of the subsidy are agreed upon, the adoptive parents and the placing agency director or designee sign all copies of the agreement which are then submitted to the State Adoption Unit for the Commissioner's approval.

The adoptive parents may request modification or termination of the agreement at any time. They have the right to appeal by written request to the Commissioner when the Commissioner denies, discontinues or modifies the agreement. Subsidy payments received shall not affect a person's eligibility for other financial payments to which the person may be entitled.

The rule also addresses subsidy reimbursement to the placing agency which provides or purchases adoption services for a child certified as eligible for a subsidy. Reimbursement is to be made for partial or full cost that is not reimbursable under other state or federal programs.

The rule includes the definitions of placing agency and "subsidized adoption". It also states that the Commissioner shall work with American Indian adoption agencies able to be licensed. American Indian children certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts or a licensed Indian child placing agency.

The Department estimates that there will be no cost to local public bodies in the State to implement the rules for the two years immediately following their adoption.

September 8, 1980
Dated

Arthur E. Noot
ARTHUR E. NOOT
COMMISSIONER

DM-akf

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE
PROPOSED AMENDMENT OF
RULE (12 MCAR 2.200)
GOVERNING ADOPTION

AFFIDAVIT OF MAILING

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

That on the 5th day of September, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Without a Public Hearing and Rule 12 MCAR 2.200 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 who, as of this date, have registered with the Department to receive notice of rulemaking activity.

Linda M Nelson

Subscribed and sworn to before me
this 5 day of September,
1980.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE
PROPOSED AMENDMENT OF
RULE (12 MCAR 2.200)
GOVERNING ADOPTION

AFFIDAVIT OF
ADDITIONAL MAILING

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

That on the 5th day of September, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to mailing the attached Notice of Intent to Adopt Without a Public Hearing and Rule 12 MCAR 2.200 to all persons and associations listed on the Department of Public Welfare mailing register, she also served the attached Notice and Rule 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 5 day of September,
1980.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE
PROPOSED AMENDMENT OF
RULE (12 MCAR 2.200)
GOVERNING ADOPTION

CERTIFICATION OF ACCURACY

I hereby certify that the attached list constitutes the complete list of persons, associations, and other interested groups who as of September 5, 1980 have requested that their names be placed on file with the Department of Public Welfare for the purpose of receiving notice of rule making activity.

Linda M. Nelson

Subscribed and sworn to before me
this 10 day of November,
19 80.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

Kris Ann Monteith, Manager
S&FA Reporting Services, Inc.
1101 - 15th Street, Northwest
Washington, D.C. 20005

South Center Manor, Inc.
Park Island
Center City, MN 55012

Leo Fitzpartick
8138 Henslowe Avenue South
Cottage Grove, MN 55016

Forestview - Hemmingway
8045 Hemmingway Avenue South
Cottage Grove, MN 55016

Charles A. Kroeger
Executive Director
QSS, Inc.
P. O. Box 838
Faribault, MN 55021

Charles V. Turnbull
Chief Executive Officer
Faribault State Hospital
Faribault, MN 55021

QSS, Inc.
P. O. Box 838
Faribault, MN 55021

Robert F. Carolan
Dakota County
Assistant County Attorney
1600 Highway 55
Hastings, MN 55033

Henry Hagen Residence
19845 Lillehei Drive
Hastings, MN 55033

Kenneth A. Malvey
Assistant County Attorney
1600 Highway 55
Hastings, MN 55033

Brighter Day Residence, Inc.
620 North Wood Street
Mora, MN 55051

Shirley Utzinger
Social Services Division
Dakota County Human Services Department
357 - 9th Avenue, North
South St. Paul, MN 55075

People, Inc.
1245 Northwestern National
Bank Building
St. Paul, MN 55101

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
Professional Association
314 Minnesota Building
St. Paul, MN 55101

Ramsey County Commissioners
Courthouse
St. Paul, MN 55101

Aviva Breen
Legal Services Advocacy Project
370 Selby Avenue
St. Paul, MN 55101

Kent Allen
Welfare Specialist
Legal Assistance of
Ramsey County, Inc.
Southern Minnesota Regional
Legal Services, Inc.
370 Selby Avenue
St. Paul, MN 55102

Martha A. Eaves
Attorney-at-Law
Southern Minnesota Regional
Legal Services, Inc.
370 Selby Avenue
St. Paul, MN 55102

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

Jerome E. Franke
271 Griggs-Midway Building
1821 University Avenue
St. Paul, MN 55104

Kay Bonner Nee
MAVSSA
141S Griggs-Midway Building
1821 University Avenue
St. Paul, MN 55104

Shelly Kleinschrodt Diers
1821 University Avenue
St. Paul, MN 55104

Advocate for the Blind
1821 University Avenue 389S
St. Paul, MN 55104

Dominic J. Sposeto
Director of Governmental Relations
Minnesota Dental Association
2236 Marshall Avenue
St. Paul, MN 55104

Linda Sandvig
Minnesota Nurses Association
1821 University Avenue
St. Paul, MN 55104

Nekton, Inc.
633 North Snelling Avenue
St. Paul, MN 55104

Our House of Minnesota, Inc.
1846 Portland Avenue
St. Paul, MN 55104

Robert L. Haven
Twin Town Treatment Center
1706 University Avenue
St. Paul, MN 55104

Good Neighbor Home
1091 Fairmount Avenue
St. Paul, MN 55105

Greenbrier Home, Inc.
Board of Directors
941 Birmingham Street
St. Paul, MN 55106

The Phoenix Residence, Inc.
Board of Directors
135 Colorado Street East
St. Paul, MN 55107

Northeast Residence, Inc.
Board of Directors
104 Bald Eagle Avenue
White Bear Lake, MN 55110

Gene L. Johannes
Executive Director
Minnesota Chiropractic Association
2353 Rice Street, Suite 170
St. Paul, MN 55113

Donald A. Dee
Executive Director
Minnesota State Pharmaceutical
Association
2469 University Avenue
St. Paul, MN 55114

James C. Shipman
Executive Director
Association of Minnesota Counties
2305 Ford Parkway
St. Paul, MN 55116

Peter Sajevic
Executive Director
Nor-Haven, Inc.
1394 Jackson Street
St. Paul, MN 55117

Dungarvin, Inc.
865 Front Street
St. Paul, MN 55117

Moore's Haven, Inc.
865 Front Street
St. Paul, MN 55117

NorHaven Homes, Inc.
Board of Directors
1394 Jackson Street
St. Paul, MN 55117

Sur La-Rue, Inc.
1346 Jackson Street
St. Paul, MN 55117

AID Homes, Inc.
Horizon Apartments
1094 Waterloo Avenue
West St. Paul, MN 55118

Dakota's Children, Inc.
400 West Marie
West St. Paul, MN 55118

Orvilla, Inc.
Board of Directors
3430 Wescott Hills Drive
Eagen, MN 55123

The Residence, Inc.
Board of Directors
2499 North Rice Street
Suite 139, Oakwood Square
Roseville, MN 55133

Linda Ewen
Anoka County Financial
Services Department
Courthouse, Third Floor
Anoka, MN 55303

Janice M. Devens, Director
Human Services Agency
Wright County Courthouse
Buffalo, MN 55313

Warner Care Homes
Board of Directors
450 East Third Street
Cokato, MN 55321

Mt. Olivet Rolling Acres
7200 Rolling Acres Road
Excelsior, MN 55331

Forestview Community Homes, Inc.
P. O. Box 1249
Minnetonka, MN 55343

Roger Moore
P. O. Box 1249
Minnetonka, MN 55343

Virginia Watkins
P. O. Box 1348
Minnetonka, MN 55343

Resa, Inc.
38 Seventh Avenue North
Hopkins, MN 55343

American Baptist Homes
of the Upper Midwest
7928 Eden Road
Eden Prairie, MN 55344

Reverend Ron J. North, Director
Way 12
645 East Wayzata Boulevard
Wayzata, MN 55391

Episcopal Group Homes
522 Shadyway Road
Wayzata, MN 55391

Hammer Residences, Inc.
Board of Directors
1909 East Wayzata Boulevard
Wayzata, MN 55391

William F. Brooks
900 Midland Bank Building
Minneapolis, MN 55401

Michael J. Ahern
Moss, Flaherty, Clarkson & Fletcher
2350 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

Planning & Development Department
Minneapolis YWCA
1130 Nicollet Mall
Minneapolis, MN 55403

Community Involvement
Board of Directors
1926 Nicollet Avenue South
Minneapolis, MN 55403

Summit House
1004 Summit Avenue
Minneapolis, MN 55403

Beverly Balos
Director of Advocacy
414 South Eighth Street
Minneapolis, MN 55404

Marylee Fithian
Executive Director
Oden and Associates
905 Park Avenue South
Minneapolis, MN 55404

Dr. James Raun
Lutheran Social Services
2414 Park Avenue
Minneapolis, MN 55404

Michael Peterson
Minnesota Crime Prevention Center
2344 Nicollet Avenue South
Minneapolis, MN 55404

Outreach Group Homes, Inc.
2344 Nicollet Avenue South
Suite 360
Minneapolis, MN 55404

Government Relations Department
United Way of Minneapolis Area
404 South 8th Street
Minneapolis, MN 55404

Helen C. Tyler
Assistant Director
Minneapolis Public Schools
254 Upton Avenue South
Minneapolis, MN 55405

Sandra Larson
NIP
2617 Hennepin Avenue
Minneapolis, MN 55406

Alternatives for Autistic People, Inc.
3725 - 47th Avenue South
Minneapolis, MN 55406

Uptown Group Living
Board of Directors
1154 East Grain Exchange
Minneapolis, MN 55408

Central Minnesota Legal Services
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN 55415

Attention: Welfare Unit

Anne L. Henry
Attorney-at-Law
Legal Advocacy for Developmentally
Disabled Persons in Minnesota
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN 55415

Northeast House, Inc.
Board of Directors
2821 South Inglewood Avenue
Minneapolis, MN 55416

Minnesota Association of Health
Care Facilities
2850 Metro Drive, Suite 429
Minneapolis, MN 55420

Attention: Rick Carter

PATH - Professional Association of
Treatment Homes
Suite 219
5851 Duluth Street
Minneapolis, MN 55422

William Conley
Mental Health Association of Minnesota
6715 Minnetonka Boulevard
Minneapolis, MN 55426

Homeward Bound, Inc.
4741 Zealand Avenue North
New Hope, MN 55428

Residential Alternatives, Inc.
5449 Lyndale Avenue North
Minneapolis, MN 55430

John G. Pidgeon
City Manager
2215 West Old Shakopee Road
Bloomington, MN 55431

Bartlett W. McNamara, D.D.S.
255 Southdale Medical Building
Minneapolis, MN 55435

Thomas Miller
Rem, Inc.
6921 York Avenue South

Mr. Jeffrey K. Andersen
Volunteers of America Care Facilities
6550 York Avenue South
Minneapolis, MN 55435

Steven L. Hill
Fairview Community Hospitals
2312 South Sixth Street
Minneapolis, MN 55454

Mr. Michael Weber, Director
Community Services Department
A-1005 Government Center
300 South Sixth Street
Minneapolis, MN 55487

Eugene J. Johnson
Administrative Assistant
Hennepin County Bureau of
Social Services
A-1005 Government Center
Minneapolis, MN 55487

Bob Franklin
City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488

Salmi Board and Lodging Home
Board of Directors
Route 1, Box 235
Aurora, MN 55705

Range Center, Inc.
Board of Directors
1001 Eighth Avenue Northwest
Chisholm, MN 55719

Pine Ridge Homes, Inc.
915 - 18th Street
Cloquet, MN 55720

United Way of Grand Rapids
220 Northwest First Street
1st Northwestern National Bank
Building
Room 210
Grand Rapids, MN 55744

Hearthside Homes
Board of Directors
Pike Bay Drive
Lake Vermillion
Tower, MN 55790

Bruce T. Rowe
Administrator
Community Health Services Board
325 Lake Avenue South, Suite 604
Duluth, MN 55802

Duluth Regional Care
Board of Directors
603 Alworth Building
Duluth, MN 55802

Legal Aid Service of Northeastern
Minnesota
Duluth Office
302 Ordean Building
Duluth, MN 55802

Miles J. Wangensteen, Director
St. Louis County Social Service
Department
Administrative Offices
422 West Third Street
Duluth, MN 55806

Residential Services of
Northeast Minnesota
2048 East Eighth Street
Duluth, MN 55812

Hiawatha Children's Homes
Board of Directors
1820 Valkyrie Drive, Northwest
Rochester, MN 55901

Olmsted ABC
Board of Directors
1312 Seventh Street, Northwest
Rochester, MN 55901

Woodvale Homes, Inc.
Box 1047
Austin, MN 55912

Woodvale Management Services
Box 1047
Austin, MN 55912

Fillmore County Handicapped
Services, Inc.
135 Center Street Southeast
Harmony, MN 55939

Innovative Homes, Inc.
P. O. Box 11
Kasson, MN 55944

Great River Homes, Inc.
P. O. Box 11
Kasson, MN 55944

Riverview Manor, Inc.
Board of Directors
Box 215
Wanamingo, MN 55983

Group Homes of Winona, Inc.
377 Main Street
Winona, MN 55987

Carol A. Klug, M.A.
Program Director
P. O. Box 619
Winona, MN 55987

Harry Meyering Center
Board of Directors
109 Homestead Drive
Box 302
Mankato, MN 56001

Assisi Residence of
Faribault County, Inc.
Board of Directors
218 South Linton
Blue Earth, MN 56013

MBW Company
801 Center Street
New Ulm, MN 56073

Christian Concern, Inc.
Board of Directors
402 North Third Street
St. Peter, MN 56082

Hope Residence, Inc.
Box 63
Waterville, MN 56096

Home for Creative Living
Board of Directors
108 Ninth Street
Windom, MN 56101

Windom CRF, Inc.
Box 244
Windom, MN 56101

New Dawn, Inc.
Board of Directors
Route 1, Box K1
Fulda, MN 56131

Hiawatha Manor, Inc.
Board of Directors
107 Fifth Avenue Northeast
Pipestone, MN 56164

Friendship Haven, Inc.
P. O. Box 576
Sherburne, MN 56171

Crippled Children's School, Inc.
Box 23
Worthington, MN 56187

Presbyterian Family Foundation
901 Service Drive
Willmar, MN 56201

Western Minnesota Legal Services
407 West Litchfield Avenue
Willmar, MN 56201

Willmar Nursing Home, Inc.
1004 Ella Avenue
Willmar, MN 56201

Alpha Homes, Inc.
Board of Directors
P.O. Box 475
Spicer, MN 56288

Catholic Charities of
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Board of Directors
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St. Cloud, MN 56301

Arnie Lee Memorial Home
Route 2
Evansville, MN 56326

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Little Falls, MN 55365

Bakke Group Home
Board of Directors
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Osakis, MN 56360

Lakeview Home
Lincoln and West Second Street
Sauk Centre, MN 56378

Heartland Homes for
Retarded Citizens, Inc.
P. O. Box 214
Park Rapids, MN 56470

Pine River Group Home
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Pine River, MN 56474

Roland F. Winterfeldt, Director
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Department of Social Services
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Economic Development

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Minnesota Department of
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Charles Schaffer
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Chief Executive Officer
Cambridge State Hospital

Robert F Rosenthal
Hospital Administrator
Rochester State Hospital

Margaret Sandberg
Minnesota Department of Health
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Legal Aid Society of Mpls.
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323 4th Ave. S.
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Minnesota Medical Association
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101 E. Fifth Street
St. Paul MN 55101

Vinson Clinic
163 N. Lexington Pkwy.
St. Paul MN 55104

Martha Schmitt
MN House of Representatives
Rm. 287 State Office Bldg.

SF-00006-01

STATE OF MINNESOTA

DEPARTMENT of Public Welfare

Office Memorandum

TO : Beverly Jones-Heydinger

DATE: November 10, 1980

FROM : Linda M. Nelson

PHONE: 296-2854

LN

SUBJECT: Rule 12 MCAR 2.200

Attached is the complete file for Rule 12 MCAR 2.200. You will find that we have not included a Notice of Intent to Solicit Outside Opinion. This is due to the fact that public opinion had been solicited when this was promulgated as a temporary rule.

It was not known at the appropriate time that an Order for Notice of Intent to Adopt a Rule Without Hearing was necessary. For this reason we have not included this document in the file.