

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 888

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-11-83
DATE FOR REVIEW 2-22-83
DATE DUE 2-25-83

Adopted w/a hearing _____
Adopted w/o hearing ↘
Temporary rule _____

Approved 2/23/83 Disapproved _____ Returned to Agency 2/24/83

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 2/23/83 Revisor approved 2/14/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See SR

✓ Order Adopting 2.3.83 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
12.22.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
12.27.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact but no changes

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General
(no requests Rec'd

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA
Office Memorandum

TO : LEONARD LEVINE, Commissioner of Public Welfare DATE: 2/23/83

Attn: DIANNE MASTERS
Special Assistant Attorney General

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 287-3493

SUBJECT: In the Matter of the Proposed Adoption of a Rule of the State Department of Public Welfare Governing a State Goal for the Number of Children in Foster Care, 12 MCAR § 2.2045.

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. Please 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 stamps of the Attorney General and Secretary of State;

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

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

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

Encs.
LDS/las
cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Public Welfare
Social Services Division

Adopted Rule Governing a State Goal for the Number of Children in Foster Care

Rule as Adopted

12 MCAR S 2.2045 State goal for number of children in foster care.

The Department of Public Welfare establishes the following goal: of the children who are receiving assistance under Title IV-E of the Social Security Act and for whom no judicial determination has been made that permanent foster care is the best plan, no more than 40 percent shall have begun their 25th month in placement during a given fiscal year. This goal applies to federal fiscal years beginning after September 30, 1983.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 23 1983 2:50 P.M.

Secretary of State

APPROVED AS TO FORM AND EXECUTION
_____ 19____
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

APPROVED AS TO LEGALITY
February 23, 1983
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed
Adoption of a Rule of the State
Department of Public Welfare
Governing a State Goal for the
Number of Children in Foster Care,
12 MCAR §2.2045

ORDER ADOPTING RULE

Notice of the Commissioner's intent to adopt the above-entitled rule without a public hearing was published in the State Register on December 27, 1982, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on December 22, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rule.

NOW, THEREFORE, IT IS ORDERED that this rule identified as 12 MCAR 2.2045 is adopted this 3rd day of February, 1983, pursuant to authority vested in me by the Minnesota Statutes §256.01.

STATE OF MINNESOTA

Dated: 2-3-83



Commissioner of Public Welfare

EW-33

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION A RULE OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING A STATE GOAL FOR THE NUMBER OF CHILDREN IN FOSTER CARE, 12 MCAR §2.2045.

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Public Welfare proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, Subdivision 4h (1980).

Persons interested in this rule shall have 30 days to submit comment on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. The comment period ends January 27, 1983.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, Subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Sandra Erickson
Department of Public Welfare
Social Services Division
4th Floor, Centennial Building
St. Paul, MN 55155
Telephone: 612/296-3250

Authority for the adoption of this rule is contained in Minnesota Statutes §257.071, Subd. 5, Laws of Minnesota 1982, Chapter 553 and Public Law Number 96-272, Sections 427 and 471 (14). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Sandra Erickson upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to Sandra Erickson.

The complete text of proposed Rule 12 MCAR §2.2045 is:

The Department of Public Welfare establishes the following goal: of the children who are receiving assistance under Title IV-E of the Social Security Act and for whom no judicial determination has been made that permanent foster care is the best plan, no more than 40 percent shall have begun their 25th month in placement during a given fiscal year. This goal applies to federal fiscal years beginning after September 30, 1983.

Copies of this Notice and the proposed rule are available and may be obtained by contacting Sandy Erickson.

Implementation of this proposed rule will not result in increased spending for local public bodies.

STATE OF MINNESOTA

Date: 12-14-82

Judith Ellison

Commissioner of Public Welfare

LJ/me

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Adoption of Rules of the State Department of Public Welfare Governing a State Goal for the Number of Children in Foster Care, 12 MCAR §2.2045

ORDER FOR NOTICE OF INTENT TO ADOPT A RULE WITHOUT PUBLIC HEARING

IT IS ORDERED this 10 day of December, 19 82 that a Notice of Intent to Adopt a Rule Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Public Welfare for that purpose and be published in the State Register.

STATE OF MINNESOTA

Date:

COMMISSIONER OF PUBLIC WELFARE

KTH/18

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF A RULE OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING A STATE GOAL FOR THE NUMBER OF CHILDREN IN FOSTER CARE, 12 MCAR §2.2045.

AFFIDAVIT OF MAILING

Wendy Johnson, being first duly sworn, deposes and says:

That on the 22nd day of December, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Public Welfare for the purpose of receiving notice of the proposed adoption of rules by this Department.

Wendy Johnson

Subscribed and sworn to before me

this 23 day of December, 1982.

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 ADOPTION OF A RULE OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING A STATE GOAL FOR THE NUMBER OF CHILDREN IN FOSTER CARE, 12 MCAR §2.2045.

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §15.0412, subd. 4, that their names be placed on file with and maintained by the Department of Public Welfare for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 4:00, P.M., this 22nd day of December, 1982.



Prior to August 15, 1972, Rule 53 governed the Medical Assistance Program. The Revisor of Statutes is presently compiling all state agency rules to issue a new rule book. The Revisor of Statutes was not able to locate the official documentation filed with the Secretary of State to indicate that Rule 53, Medical Assistance, was repealed on August 15, 1972 when the new Medical Assistance Rule 47 was adopted. Therefore, official action is not being taken to repeal Rule 53, Medical Assistance.

Rule 47, Medical Assistance, which presently governs the Medical Assistance Program is not affected by this repeal.

Copies of this notice and the rule to be repealed are available and may be obtained by contacting Robert Hamper.

December 7, 1982

Arthur E. Noot
Commissioner of Public Welfare

Rule as Proposed

Repealer. Rule 12 MCAR § 2.053 is repealed.

Department of Public Welfare
Social Services Division

Proposed Rule Governing a State Goal for the Number of Children in Foster Care (12 MCAR § 2.2045)

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State Department of Public Welfare proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980).

Persons interested in this rule shall have 30 days to submit comment on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Sandra Erickson
Department of Public Welfare
Social Services Division
4th Floor, Centennial Building
St. Paul, MN 55155
Telephone: 612/296-3250

Authority for the adoption of this rule is contained in Minnesota Statutes § 257.071, subd. 5, Laws of Minnesota 1982, Chapter 553 and Public Law Number 96-272, sections 427 and 471 (14). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Sandra Erickson upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to Sandra Erickson.

The complete text of proposed rule 12 MCAR § 2.2045 is:

KEY: 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The Department of Public Welfare establishes the following goal: of the children who are receiving assistance under Title IV-E of the Social Security Act and for whom no judicial determination has been made that permanent foster care is the best plan, no more than 40 percent shall have begun their 25th month in placement during a given fiscal year. This goal applies to federal fiscal years beginning after September 30, 1983.

Copies of this notice and the proposed rule are available and may be obtained by contacting Sandy Erickson.

Implementation of this proposed rule will not result in increased spending for local public bodies.

December 10, 1982

Arthur E. Noot
Commissioner of Public Welfare

Rule as Proposed (all new material)

12 MCAR § 2.2045 State goal for number of children in foster care.

The Department of Public Welfare establishes the following goal: of the children who are receiving assistance under Title IV-E of the Social Security Act and for whom no judicial determination has been made that permanent foster care is the best plan, no more than 40 percent shall have begun their 25th month in placement during a given fiscal year. This goal applies to federal fiscal years beginning after September 30, 1983.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Board of Animal Health

Adopted Rule Governing Official Identification Tags and Brands

The rule proposed and published at *State Register*, Volume 7, Number 4, pages 109-110, July 26, 1982 (7 S.R. 109) is adopted as proposed.

Board of Animal Health

Adopted Amendment of Rules Governing Control of Mycoplasma in Poultry (3 MCAR § 2.032) and Salmonella Typhi-Murium Disease in Turkeys (LSB 33)

The rules proposed and published at *State Register*, Volume 7, Number 4, pages 111-112, and 113-114, July 26, 1982 (7 S.R. 111, and 7 S.R. 113) are adopted as proposed.

Board of Animal Health

Adopted Amendment of Rule Governing Control of Bovine Paratuberculosis in Minnesota (3 MCAR § 2.015)

The rule proposed and published at *State Register*, Volume 7, Number 4, pages 110-111, July 26, 1982 (7 S.R. 110) is adopted as proposed.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed
Adoption of a Rule of the State
Department of Public Welfare
Governing a State Goal for the
Number of Children in Foster Care,
12 MCAR §2.2045

FINDINGS OF FACT AND
CONCLUSIONS

Notice of the Commissioner's intent to adopt the above-entitled rule without a public hearing was published in the State Register on December 27, 1982, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on December 22, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rule, I find the following:

The above-entitled rule shall be adopted as proposed.

Note: There were no written comments received on this rule and there were no requests for a public hearing.

STATE OF MINNESOTA

Dated: 2-3-83

Commissioner of Public Welfare

EW-32

IN THE MATTER OF THE ADOPTION OF
12 MCAR 2.2045 STATE GOAL FOR
NUMBER OF CHILDREN IN FOSTER CARE

STATEMENT OF NEED AND
REASONABLENESS

This goal statement is necessary so that the State Agency can comply with the requirements of M.S. 257.071, subd. 5 (Chapter 553 of the 1982 Session Laws) and Public Law 96-272, sec. 427 and sec. 471 (14) which requires the state to have a goal for the number of children who will remain in foster care over 24 months.

During the state fiscal year 1982, there was a total of 17,300 child placements. Of this total, 2,877 placements were funded under Title IV-E of the Social Security Act. Based on the statewide inventory of children in substitute care conducted in October, 1981, approximately 40% of all children in placement had been in care for 24 months or longer. Applying this same percentage to the Title IV-E population (40% of 2,877 children), approximately 1,151 children have been in placement 24 months or longer. This number of 1,151 could be further reduced by a count of the number of these children who may be in permanent foster care as a result of a judicial determination that permanent foster care is the best plan for the child. For example, state wards over the age of 14 who have chosen not to be adopted would be in permanent foster care and a significant number of mentally retarded children who are currently placed in community facilities and foster homes and for whom their placement goal is one of permanent foster care would not be impacted by this goal of reducing out-of-home placements. In a two year period, 1979-81, the local agencies were able to reduce the number of placements by +900. The agencies have been developing successful programs to help children remain in their own homes through the provision of preplacement preventive services. For those children already in foster care, the agencies have developed a program of family reunification services which help to reunite the family at the earliest possible time. We anticipate a reduction in out-of-home placements by another 500 during fiscal year 1983 as a result of these locally based programs. For these reasons and based on the data provided, the goal as stated in this rule is both reasonable and achieveable.

Although there is no federal fiscal sanction if the state is unable to achieve this goal, there is a sizeable fiscal sanction if we fail to establish the goal. This fiscal sanction could be as great as the total amount of the state's Title IV-B allotment (+$2 million).

Originally this goal statement was made a part of the proposed amendments to 12 MCAR 2.204, Foster Care Service. It is now clear to the Department that the amendment of Rule 204 will be delayed beyond the time frame allowed in P.L. 96-272 to establish the required goal statement. For this reason the Department has elected to propose this non-controversial rule and utilize the expedited rule-making procedure.

Anita E Lewis

COMMISSIONER
DEPARTMENT OF PUBLIC WELFARE

12-8-82

DATE

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed
Adoption of a Rule of the State
Department of Public Welfare
Governing a State Goal for the
Number of Children in Foster Care,
12 MCAR §2.2045

STATEMENT OF COMPLIANCE
WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Diane Masters, do hereby declare that I have examined the 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.

STATE OF MINNESOTA

Dated: 2/9/83

Diane Masters
Special Assistant Attorney General

EW-30

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed
Adoption of a Rule of the State
Department of Public Welfare
Governing a State Goal for the
Number of Children in Foster Care,
12 MCAR §2.2045

AFFIDAVIT OF MAILING NOTICE
OF SUBMISSION TO THE
ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

Sandra D. Erickson, being first duly sworn, deposes and says:

That no requests were received to notify any persons or organizations when the above-entitled matter is submitted to the Attorney General.

Sandra D. Erickson

Subscribed and sworn to before me
this 2 day of February, 1983.

Margaret Holt

EW-31

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