

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 44D TEMP

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-24
DATE FOR REVIEW
DATE DUE 8-30/31

Adopted w/a hearing
Adopted w/o hearing
Temporary rule ✓

Approved 8/31 Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State Revisor approved / disapproved

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✓ Rule as Adopted

✓ Rule as Proposed See SR.

✓ Order Adopting 8.24.83 Date combined with FofF

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 (verified by Bob Hamper - same form as in SR
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
7.26.83 At least ~~30~~ 20 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
8.1.83 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 combined with Order Adopting
- See also "Position Paper"

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

Statement of Need and Reasonableness

✓ Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : Leonard Levine, Commissioner

Attn: Dianne Masters, Special Assistant Attorney General

DATE: 8/31/83

FROM : Ted A. Martinez
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of a Temporary Rule Governing Child Day Care Sliding Fees (12 MCAR § 2.164 Temporary)

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.
TAM/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Public Welfare
Bureau of Social Services
Adopted Temporary Rule Governing Child Day Care Sliding Fees
Temporary Rule as Adopted

12 MCAR S 2.164 [Temporary] Child day care sliding fee program.

A. Introduction. Under Minnesota Statutes, sections 245.83 to 245.87, this rule governs the administration of the child day care sliding fee program for reducing, according to a sliding fee schedule, the cost of child care for eligible families.

B. County allocation.

1. The recipient of a child day care sliding fee program allocation shall be a county or a group of counties. The county may designate any public or nonpublic agency to administer the program.

2. Because of the limited appropriation for the child day care sliding fee program and the requirement that the services of this program be provided to all persons entitled to them, first priority in allocating the appropriation will be given those counties with entitled families. Entitled families are those families which were receiving child care services under Minnesota Statutes, section 245.84, subdivision 2 on July 1, 1983. Remaining money will be allocated to the counties based upon the number of persons estimated to use the child day care sliding fee program services and the cost of the services as reported by the counties.

a. The allocation to each county for the state fiscal years 1984 and 1985 will be based on the estimated program costs as established by each county report and each county's program expenditures for state fiscal years 1982 and 1983.

b. In the event that the total estimated cost exceeds the appropriation, the percent the appropriation is to the estimated cost will be determined, and allocations made to the counties will be reduced according to that percentage.

c. In the event that the total estimated cost for those counties with entitled families is less than the total appropriation, the excess funds will be allocated to additional

counties based upon the number of persons estimated to use the program and the expected cost.

d. Neither Region Eleven, nor Region One through Region Ten combined receive more than 55 percent of the appropriation.

3. All counties participating in the program for the first time shall provide a local match equal to five percent of the program cost. All other participating counties shall provide a local match equal to 15 percent of the program cost. For purposes of determining the local match, administrative costs must be considered to be the provider charge times seven percent. The local match does not include the amount of minimum fee payments made by families but may include in-kind materials and services, furnished by the county, required for the administration of the program.

C. Family eligibility for assistance.

1. Within the limits of the allocation and the required local match, each county must provide the services of this program to those persons entitled to the services under Minnesota Statutes, section 245.84, subdivision 2.

2. Entitled persons lose their eligibility when their income exceeds or falls below the income range used by the county at the time of entitlement.

*Insert

~~3.~~ 5. Expansion of child day care sliding fee program services to other recipients will depend on additional county funding or state appropriation.

D. Alternative fee schedules. A county may propose an alternative fee schedule if it meets the following criteria:

1. Use of the state sliding fee schedule would impose a hardship such as substantially increased child care fees on families already participating in a sliding fee program;

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

3. The county program serves a large enough population to

INSERT

3. Income means all monthly income before deductions received from wages or salary received by all family members age 14 or over; net income from self employment; net farm income; social security payments; dividends, interest, rent received, or royalties; General Assistance payments; pensions and annuities; unemployment compensation; alimony; child support; Veteran's pensions; or any combination of the above sources of income.

4. Application for assistance must be made in the family's county of residence.

demonstrate the impact of the program; and

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

E. Applicability. Rule 12 MCAR S 2.164 [Temporary] governing the authority for establishing sliding fee schedules for child day care, the allocation of appropriations of child day care money to local social service agencies, and family eligibility for funding assistance will be in effect until it is superseded by a permanent rule, or for a maximum of 360 days.

Repealer. 12 MCAR S 2.163 A.1, B., C., D., and F. are repealed.

APPROVED AS TO LEGALITY
August 31 1983
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Ted A. Mathias
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 8 1983
Joan Anderson Growe
Secretary of State

10:25 A.M.

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Adoption of a Temporary Rule Governing Child Day Care Sliding Fees (12 MCAR § 2.164 Temporary)

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE

Notice of the Commissioner's intent to adopt the above-entitled temporary rule and the proposed rule were published in the State Register on August 1, 1983, and were sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14, subdivision 1 on July 26, 1983. After affording interested and affected persons an opportunity to submit comments for 20 days after publication, reviewing and considering the comments, and having determined that the above-captioned rule is needed and reasonable, I find the following:

1. A comment was received from Roger Engstrom, Hennepin County Community Services Department requesting that a definition of income be added to the temporary rule. The Commissioner finds that it is necessary and reasonable to comply with this request because counties must redetermine eligibility of clients and need a definition of income, and for administrative purposes, a uniform standard is needed. The definition of income is the definition previously required by Rule 12 MCAR § 2.163 Child Day Care Sliding Fee. Therefore, 12 MCAR § 2.164 (Temporary) is amended on page 2, after line 20 and before line 21 to read:

   "3. Income means all monthly income before deductions received from wages or salary received by all family members age 14 or over; net income from self-employment; net farm income; Social Security payments; dividends, interest, rent received, or royalties; General Assistance payments; pensions and annuities; unemployment compensation; alimony; child support; veteran's pensions; or any combination of the above sources of income."

2. A comment was received from Roger Engstrom, Hennepin County Community Services Department requesting that the requirement that applicants for program services be residents of the county in which they apply be added to the temporary rule. The Commissioner finds that it is necessary and reasonable to comply with this request because additional funds may become available for program services and currently entitled clients may change their residence from one county to another. This requirement was formerly found in Rule 12 MCAR § 2.163. Therefore, 12 MCAR § 2.164 (Temporary) is amended on page 2, after line 20 and before line 21 to read:

   "4. Application for assistance must be made in the family's county of residence."

3. Because of the addition of the amendments listed above, it is necessary on page 2, line 21 to change the numbering. Therefore, 12 MCAR § 2.164 (Temporary) is amended on page 2, line 4 to read:

   "5. Expansion of child day care sliding fee program"

NOTE: The proposed temporary rule as published in the State Register, August 1, 1983, contained two typographical errors. Line 8, page 3 read 36 days instead of "360 days" and line 10 excluded section D. These corrections will be made in the State Register by errata correction on August 29, 1983. All copies of the proposed rule sent by the Department were printed correctly.

NOW, THEREFORE, IT IS ORDERED that Rule 12 MCAR § 2.164 is to be adopted as proposed, with the above amendments, this 24th day of August, 1983, pursuant to authority vested in me by Minnesota Laws 1983, chapter 312, article 2.

STATE OF MINNESOTA

COMMISSIONER OF PUBLIC WELFARE

8/24/83
Date

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF A TEMPORARY RULE OF THE STATE DEPARTMENT PUBLIC WELFARE GOVERNING CHILD DAY CARE SLIDING FEES (12 MCAR §2.164 TEMPORARY)

ORDER FOR PUBLICATION OF A TEMPORARY RULE

IT IS ORDERED this 15th day of July, 1983, that the proposed temporary rule in the above-entitled matter be published in the State Register.

STATE OF MINNESOTA

Commissioner of Public Welfare

KD1/03

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

In the Matter of Proposed
Temporary Rule Governing
Child Day Care Sliding Fees
(12 MCAR §2.164 Temporary)

AFFIDAVIT OF MAILING

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

That on the 26th day of July, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt a Temporary Rule 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 27 day of July, 1983.

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 Proposed
Temporary Rule Governing
Child Day Care Sliding Fees
(12 MCAR §2.164 Temporary)

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 26th day of July, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to serving the attached Notice of Intent to Adopt a Temporary Rule to all persons and associations who have requested that their names be placed on file for the purpose of receiving notice of the proposed adoption of rules by this Department, she also served the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following agencies:

Tuttie Sherlock
Child Care Resource and Referral

Dale Anderson
Greater Mpls. Day Care Assoc.

Wendy Johnson

Subscribed and sworn to before me

this 27 day of July, 1983.

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 Proposed
Temporary Rule Governing
Child Day Care Sliding Fees
(12 MCAR §2.164 Temporary)

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 26th day of July, 1983.

Department of Public Welfare
Bureau of Social Services

Proposed Temporary Rule Governing Child Day Care Sliding Fees (12 MCAR § 2.164 Temporary)

Notice of Intent to Adopt Temporary Rule

The State Department of Public Welfare proposes to adopt the above-entitled temporary rule to implement *Laws of Minnesota 1983*, ch..pter 312, article 2.

Persons interested in this rule have until August 22, 1983 to submit written comments. The proposed temporary 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. Written comments should be sent to:

Jerry Ferguson
Social Services Bureau
Department of Public Welfare
4th Floor, Centennial Building
St. Paul, MN 55155
(612) 297-3635

Upon adoption of this temporary rule, this notice, all written comments received, and the adopted temporary rule will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

The adopted temporary rule will not become effective without the Attorney General's approval and the Revisor of Statute's certification of the rule's form.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, this temporary rule shall be in effect for up to 180 days following its adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The temporary rule shall not be effective 360 days after its effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Under Minnesota Statutes, sections 245.83-245.87, as amended, 12 MCAR § 2.164 (Temporary) governs the administration of the Child Day Care Sliding Fee Program for reducing, according to a sliding fee, the cost of child care for eligible families. To be eligible for this program, a family's income must be between the income level established for eligibility for the Aid to Families with Dependent Children Program to 90 percent of the state median income. This temporary rule contains provisions on the allocation appropriations of child day care monies to local social service agencies and on family eligibility for funding assistance.

This temporary rule will not result in any additional state spending beyond the amount of funds appropriated under *Laws of Minnesota 1983*, chapter 312 or additional county spending beyond the amount currently required by Minnesota Statutes, section 245.84, subdivision 2.

Copies of this notice and the proposed temporary rules may be obtained by contacting Jerry Ferguson at (612) 297-3635.

Leonard W. Levine,
Commissioner of Public Welfare

Temporary Rule as Proposed (all new material)

12 MCAR § 2.164 [Temporary] Child day care sliding fee program.

A. Introduction. Under Minnesota Statutes, sections 245.83 to 245.87, this rule governs the administration of the child day care sliding fee program for reducing, according to a sliding fee schedule, the cost of child care for eligible families.

B. County allocation.

1. The recipient of a child day care sliding fee program allocation shall be a county or a group of counties. The county may designate any public or nonpublic agency to administer the program.

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.

2. Because of the limited appropriation for the child day care sliding fee program and the requirement that the services of this program be provided to all persons entitled to them, first priority in allocating the appropriation will be given those counties with entitled families. Entitled families are those families which were receiving child care services under Minnesota Statutes, section 245.84, subdivision 2 on July 1, 1983. Remaining money will be allocated to the counties based upon the number of persons estimated to use the child day care sliding fee program services and the cost of the services as reported by the counties.

a. The allocation to each county for the state fiscal years 1984 and 1985 will be based on the estimated program costs as established by each county report and each county's program expenditures for state fiscal years 1982 and 1983.

b. In the event that the total estimated cost exceeds the appropriation, the percent the appropriation is to the estimated cost will be determined, and allocations made to the counties will be reduced according to that percentage.

c. In the event that the total estimated cost for those counties with entitled families is less than the total appropriation, the excess funds will be allocated to additional counties based upon the number of persons estimated to use the program and the expected cost.

d. Neither Region Eleven, nor Region One through Region Ten combined receive more than 55 percent of the appropriation.

3. All counties participating in the program for the first time shall provide a local match equal to five percent of the program cost. All other participating counties shall provide a local match equal to 15 percent of the program cost. For purposes of determining the local match, administrative costs must be considered to be the provider charge times seven percent. The local match does not include the amount of minimum fee payments made by families but may include in-kind materials and services, furnished by the county, required for the administration of the program.

C. Family eligibility for assistance.

1. Within the limits of the allocation and the required local match, each county must provide the services of this program to those persons entitled to the services under Minnesota Statutes, section 245.84, subdivision 2.

2. Entitled persons lose their eligibility when their income exceeds or falls below the income range used by the county at the time of entitlement.

3. Expansion of child day care sliding fee program services to other recipients will depend on additional county funding or state appropriation.

D. Alternative fee schedules. A county may propose an alternative fee schedule of it meets the following criteria:

1. Use of the state sliding fee schedule would impose a hardship such as substantially increased child care fees on families already participating in a sliding fee program;

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

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

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

E. Applicability. Rule 12 MCAR § 2.164 [Temporary] governing the authority for establishing sliding fee schedules for child day care, the allocation of appropriations of child day care money to local social service agencies, and family eligibility for funding assistance will be in effect until it is superseded by a permanent rule, or for a maximum of 36 days.

Repealer. 12 MCAR § 2.163 A.1. B., C., and F., are repealed.

Occupational Safety and Health Review Board

Proposed Rules of Procedure for Practice Before the Occupational Safety and Health Review Board

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Occupational Safety and Health Review Board intends to adopt amendments and additions to the rules relating to the board without a public hearing. The board has determined that its proposed amendments

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF PROPOSED TEMPORARY RULE GOVERNING CHILD DAY CARE SLIDING FEES (12 MCAR §2.164 Temporary)

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, 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.

Diane Masters
Special Assistant Attorney General

Dated: 8/24/83