

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 914

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 11-3
DATE FOR REVIEW 11-14
DATE DUE 11-23

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

Approved 11.23.83 mjc Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State Revisor approved 11.8.83 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 11.1.83 Date contains outdated citation to APA section combined with F. of F

✓ Notice of Intent to Solicit Outside Opinion 12.28.81

✓ Order for rulemaking
9.9.83 date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Mailing list Certificate

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

✓ Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
✓ Approving agency action

✓ Agency's Findings of Fact combined w/ Order Adopting

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

✓ Record (includes transcript or tape not submitted but exists, 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

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Leonard W. Levine, Commissioner

DATE: 11/23/83

Attn: DIANNE MASTERS, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-4347

SUBJECT: In the Matter of the Proposed Adoption of Amendments to Rule 204 of the Department of Public Welfare Governing Foster Case - Children (12 MCAR § 2.204)

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

14. Voluntary placement agreement. "Voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the social service agency and the parents or guardians of a minor child, which specifies the legal status of the child and the rights and obligations of the parents, the child, and the agency.

15. Difficulty of care payment. "Difficulty of care payment" means a supplemental maintenance payment determined by the local social services agency and based upon an assessment of the child's special needs due to existing physical, mental, or emotional handicaps. A difficulty of care payment does not include payment for services rendered by a licensed foster parent.

C. Services to children in foster care.

1. Service delivery.

a.-g. [Unchanged.]

h. Service plan and review. For those children who are placed in foster family homes, group homes or relatives' homes (unless placement with the relative is planned to be permanent) and for whom the local social service agency has placement or supervisory responsibility, the agency shall comply with the requirements in (1)-(4).

(1) Case placement plan. The agency shall prepare a written plan for each child who is placed in a foster home or residential facility. The plan must be prepared before the child is placed unless the child's situation requires immediate placement. If an emergency placement is necessary, the case plan must be prepared within 30 days after the initial placement.

The case placement plan must include the following components:

(a) the agency's assessment of the family, including:

(i) a list of the presenting problems which brought the family to the agency, or a statement of why the agency intervened in the family situation;

(ii) a discussion of services that were

BDS 70
Definition Section

16. Residential facility. " Residential facility " means any group home, family foster home or other publically supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services.

HE 11

provided to prevent the need for the removal of the child from the home, and why the services were not successful, or why the parents requested placement of their child;

(iii) a discussion of alternative plans that were considered and why foster care was chosen;

(iv) a discussion of why the particular foster home or facility was selected, including a description of the facility that was selected, and the reason it was chosen; the reason a foster home was not used if the child was placed in an institution; and the reason why the child was not placed in the local county if the child was placed in another county or state;

(b) a signed agreement among the agency, the parents, and, if able to understand the meaning of this agreement, ~~appropriate,~~ the child which includes: HE 10

(i) an assessment of the specific reasons for the placement of the child in a foster home or institution, including a description of the problems or conditions in the home which necessitated removal of the child from the home;

(ii) the specific actions to be taken by the parents to eliminate or correct the problems or conditions which necessitated placement, and the time period during which the actions are to be taken;

(iii) the financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the foster home;

(iv) the date on which the child is expected to be returned to the home of his parents;

(v) the specific action to be taken by the child, if appropriate, to change behavior which contributed to the need for placement;

(vi) the social and other supportive services to be provided by the agency to assist the parents and the child during the period the child is in the foster home;

(vii) the frequency of contacts of the agency with the parents and the child; and

(viii) the visitation rights and obligations of the parents during the period the child is in the foster home;

(c) an agreement signed by the agency, the parents, the foster parents, and if ~~appropriate,~~ able to understand the meaning of this agreement, the child which HE 10 includes:

(i) the authority and responsibility of the foster parents to arrange for medical and dental care for the child;

(ii) the authority and responsibility of the foster parents to arrange for education for the child and to meet with teachers regarding the child's progress;

(iii) the specific action and behavior of the child that the foster parents are to work with;

(iv) the authority and responsibility of the foster parents for supervision of the child;

(v) the plan for the parents to visit the child, which includes the specific days for visits, the specific hours for the beginning and end of each visit, and any special conditions affecting visitation; and

(vi) the social service to be provided by the agency to assist the foster parents, including the frequency of contacts and the person assigned to them.

(d) the agency shall advise the parents of their right to receive assistance from any person or social service agency and their right to legal counsel in the preparation of the placement plan;

(e) the agency shall explain to the parents that if the parents are unable to correct the conditions necessary for their child's return home, they could lose their parental rights; and

(f) if the agency cannot comply with any placement plan requirement, the agency shall document the reason in the record.

(2) Administrative review. All cases must be reviewed by an administrative panel periodically, but at least once every six months. The review must be open to the parents, the child, and the foster parents. The review must determine:

(a) whether the placement remains necessary and

appropriate;

(b) the extent of compliance with the case plan;

(c) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; and

(d) the likely date by which the child may be returned to the home or placed for legal adoption or guardianship.

(3) Petition for court review. As an alternative to the administrative review for children placed in foster care by voluntary agreement, the local social service agency may petition the court pursuant to Minnesota Statutes, section 260.131, subdivision ~~1~~ a., HE 12, for review of the foster care to determine if placement is in the best interests of the child.

(4) Dispositional hearing. For each child in foster care under court order pursuant to Minnesota Statutes, section 260.191, subdivision 1, the local social services agency shall petition the court for a dispositional hearing pursuant to Minnesota Statutes, section 260.191, subdivision 2, no later than 12 months after the initial dispositional hearing and annually thereafter during the continuation of foster care. For each child in foster care whose parental rights have been terminated and the child made a ward of the commissioner of public welfare, the local social services agency shall petition the court pursuant to Minnesota Statutes, section 260.242, subdivision 2, clause (d) for a dispositional hearing. The dispositional hearing must be held in a juvenile court or a tribal court of competent jurisdiction, or by an administrative body appointed or approved by the court.

When the dates of the dispositional hearing and the periodic review coincide, the dispositional hearing may replace the periodic review. A periodic review cannot substitute for a dispositional hearing.

Children in permanent foster care, whose placement was approved by the court pursuant to Minn. Stat. 260.242, subd. 2(d) HE 13 are excluded from this requirement.

(5) Eighteen-month review of voluntary placements.

If the child is not returned to his home within 18 months after his initial placement in a residential facility, the local social service agency shall either return the child to the home of his parents or file an appropriate petition with the court to review the foster care status of the child and make a decision as to the child's continued placement.

i.-k. [Unchanged.]

l.

(1) The local social services agency shall make payments based on the following maintenance standards:

Age	Monthly Maintenance Standard	Initial Clothing
0-11	$212 ($244 effective January 1984)	up to $146 (up to $168 effective January 1984)
12-14	$293	up to $288
15-18	$320	up to $348

The initial clothing allowance shall be available based on the child's needs during the first 60 days of the initial placement. The state agency shall annually review and revise the maintenance standard based on "USDA Estimates of the Cost of Raising a Child," issued by the United States Department of Agriculture, Agricultural Resources Service, Pub. 1411 (October, 1982).

(2) In addition to the basic maintenance standard, monthly payments for additional maintenance needs shall be made as determined by the local social services agency. The local county board shall establish "difficulty of care" payments for all children in foster care.

(3) When foster care is provided for a child through contract with another public or private agency, foster care maintenance payments and difficulty of care payments shall be determined according to the rate schedule in (1) and (2). If the local social service agency is contracting for administrative or social service costs, payments to the cooperating agency shall be in an amount which is additional to the maintenance rate established in (1) and (2).

(4) The local social service agency may pay a fee

for services to foster parents based on the foster parents' skills, experience, or training. This fee is not a maintenance expense.

(5) The local social service agency may, through action by the county welfare board, human service board, or board of county commissioners, establish a local fund of county money through which the agency may reimburse foster parents for the cost of repairing damage done to the foster home and contents by the foster child, and the additional car insurance premium cost of a foster child who possesses a permit or license to drive a car. HE 17

m. [Reletter as n.]

D. [Unchanged.]

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 30 1983
Joan Anderson Growe
Secretary of State
2:03 PM

APPROVED AS TO FORM AND EXECUTION
November 23 1983
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassely
SPECIAL ASSISTANT ATTORNEY GENERAL

AG copy

Department of Public Welfare

Adopted Amendment to Rule Governing Foster Care for Children

Rule as Adopted

12 MCAR S 2.204 Foster care -- children.

A. [Unchanged.]

B. Definitions.

1.-9. [Unchanged.]

10. Foster care maintenance payments. "Foster care maintenance payments" means payments to cover the cost of and the cost of providing a child's food, clothing, shelter, daily supervision, school supplies, and personal incidentals, and reasonable travel to the child's home for visitation. In the case of institutional care, the term includes the reasonable costs of administration and operation of the institutions which are necessary to provide the things listed in the preceding sentence.

11. Dispositional hearing. A "dispositional hearing" is a hearing held by a family or juvenile court, or another court, including a tribal court, of competent jurisdiction, or by an administrative body appointed or approved by the court, to determine the future status of the child, including whether the child should be continued in foster care for a specified period, should be placed for adoption, or should be continued in foster care on a permanent or long-term basis.

12. Administrative review. "Administrative review" is a review open to the participation of the parents of the child and conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of or the delivery of services to either the child or the parents.

13. Voluntary placement. "Voluntary placement" is an out-of-home placement of a minor by or with participation of the social service agency, after the parents or guardian of the minor have requested the assistance of the agency and signed a voluntary placement agreement.

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed
Adoption of Amendments to Rule 204
of the Department of Public Welfare
Governing Foster Care - Children
(12 MCAR § 2.204)

ORDER ADOPTING RULE 204

The above-entitled matter was heard before Peter C. Erickson, Hearing Examiner, on the 9th day of September, 1983, at 9:30 a.m., in Conference Room A, Fourth Floor Centennial Office Building, St. Paul, Minnesota. The Department of Public Welfare served proper notice as required by Minnesota Statutes section 15.0412, subdivision 4, upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

At said hearing, the proposed amendments as published at 8 State Register 189-195 were considered. Dianne Masters, Special Assistant Attorney General, appeared as counsel for DPW and Sandra Erickson, Foster Care Consultant, Division of Social Services, appeared to testify on behalf of DPW. The hearing continued until all interested groups and persons had an opportunity to be heard. Pursuant to order of the Hearing Examiner, the record was held open for seven (7) working days for the submission of written comments and statements.

Based upon all the records and proceedings, the Hearing Examiner made Findings of Fact and a Recommendation which are contained in the Report of the Hearing Examiner dated October 18, 1983. This report is attached hereto as Exhibit A.

Pursuant to the requirements of Minnesota Statutes section 15.0412, subdivision 4d, this report was available to all affected persons for at least five (5) days.

Having considered all of the evidence adduced and upon the records, files, and proceedings herein, the applicable statutory standards and criteria, and having confirmed the need for the adoption of amendments to the above-captioned rule and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED that the Findings, Conclusions of the Hearing Examiner, as contained in the report of the Hearing Examiner, are hereby adopted and incorporated herein.

IT IS FURTHER ORDERED that in accordance with the recommendations contained in the report of the Hearing Examiner, the following additional changes are made to the rules:

1. Section B. 16: The term "residential facility" as used in Section C.1.h.(5) of this rule is defined in this section as it is set forth in Minnesota Statutes section 257.071, subdivision 1.:

16. Residential facility. "Residential facility" means any group home, family foster home or other publically supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county, or other polictical subdivision, or any agency thereof, to provide those services.

2. Section C.1.1.(5): The words "and contents" are to be inserted after the term "foster home" on line 8 of this section.

The Commissioner concurs with the Hearing Examiner that each of these amendments is necessary, that none of them is substantial, and they are so ordered for purposes of clarity and proper grammar.

IT IS FURTHER ORDERED that this rule identified as 12 MCAR § 2.204 - Foster Care - Children - is adopted this 1st day of November, 1983, and after this day, Rule 204 shall read in its entirety as set forth in the attached Exhibit B, pursuant to the authority vested in me, and pursuant to:

(a) Minnesota Statutes section 393.07, subdivision 1-3, as amended by 1983 Laws, chapter 7, 9;

(b) Minnesota Statutes section 256.01, subdivision 2, as amended by 1983 Laws, chapter 7, 3, chapter 243, 5 and chapter 312, article 5, 3;

(c) Minnesota Statutes section 257.175;

(d) Minnesota Statutes section 256E.05, subdivision 1; and

(e) Minnesota Statutes section 256.82, subdivision 3, as amended by 1983 Laws, chapter 312, article 5, 5.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

DATED: 10-28-83

LEONARD W. LEVINE
Commissioner

EW-44

Attachment

found in Public Law 96-272. The proposed changes are limited to revised sections on Service Plan (12 MCAR § 2.204 C.1.h.) and Rates Paid to Foster Home (12 MCAR § 2.204 C.1.1.).

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

Sandra Erickson
Division of Social Services
Minnesota Department of Public Welfare
4th Floor, Centennial Office Building
St. Paul, MN 55155

All statements of information and comment must be received by January 31, 1982. Any written material received by the department shall become part of the hearing record.

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-7876. **Application deadline is January 19, 1982.**

HUMAN RIGHTS ADVISORY COMMITTEE has 1 vacancy for a member. The committee advises the Commissioner of Human Rights and recommends programs and policies. Members are appointed by the Governor. Monthly meetings are held. Members receive $35 per diem. For specific information, contact the Human Rights Advisory Committee at 240 Bremer Bldg., St. Paul 55101; (612) 296-5676.

BOARD ON JUDICIAL STANDARDS has 1 vacancy for a District Court Judge. The board investigates allegations of misconduct by Minnesota judges and recommends judicial discipline to the Supreme Court, including censure, suspension, retirement or removal of judges. Members are appointed by the Governor and confirmed by the Senate. Monthly meetings are held. Members receive $35 per diem. For specific information, contact the Board on Judicial Standards at 202 Minnesota State Bank Bldg., 200 S. Robert, St. Paul 55107; (612) 296-3999.

CORRECTIONS BOARD has 1 vacancy for a woman member. The board grants paroles and discharges to adult felons committed to the Commissioner of Corrections. Members are appointed by the Governor and confirmed by the Senate. Members must file with the Ethical Practices Board. Members hold six year terms. Positions are full-time. Members receive $25,682 annually. The board will expire June 30, 1982. For specific information, contact the Corrections Board at 430 Metro Square Bldg., St. Paul 55101; (612) 296-2729.

Waste Management Board

Notice of Elimination of Proposed Area in Shakopee from Further Consideration as a "Preferred Area" for Hazardous Waste Processing Facilities

At its December 4 meeting in Thief River Falls the Waste Management Board voted to eliminate from further consideration an area in Shakopee proposed by the board September 11 as a "preferred area" for hazardous waste processing facilities.

The board took the action after the Shakopee City Council voted on December 1 to withdraw its proposal of the area, a five-acre site formerly owned by Pollution Control, Inc. The area had originally been volunteered by the City Council and the Mayor of Shakopee for possible inclusion in the board's "Inventory of Preferred Areas for Hazardous Waste Processing Facilities," to be issued in February, 1982.

Following the Waste Management Board's December 4 action the board cancelled a public hearing on the proposed area, which had been scheduled for December 11.

Errata

At *State Register*, Volume 6, Number 25, December 21, 1981, page 1163 (6 S.R. 1163), in 4 MCAR § 7.009 C.1., change "April 1, 1981" to read "April 1, 1982."

DPW #C

RECEIVED
AUG 12 1982
ADMINISTRATIVE HEARINGS

Department of Public Safety
Bureau of Criminal Apprehension

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Issuance of Explosives Licenses and Permits

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the issuance of explosives licenses and explosives permits. The promulgation of these rules is pursuant to Minnesota Statutes §§ 299F.71 through 299F.83 which authorizes the commissioner to issue explosives licenses and permits and determine eligibility.

The Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until February 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner

Department of Public Safety
Bureau of Criminal Apprehension

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Issuance of Permits for the Use of Police Communications Equipment in Motor Vehicles Pursuant to Minn. Stat. § 299C.37.

Notice is hereby given that the State of Minnesota, Department of Public Safety, Division of Bureau of Criminal Apprehension is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the issuance of permits for the use of police communications equipment in motor vehicles. The promulgation of these rules is authorized by Minnesota Statutes §§ 299C.37, subd. 3 which requires the superintendent of the Bureau of Criminal Apprehension to establish rules for carrying out and enforcing Minnesota Statutes §§ 299C.30 through 299C.38 concerning police radio broadcasting stations.

The Bureau of Criminal Apprehension requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until February 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner
John D. Erskine, Superintendent

Department of Public Welfare
Social Service Bureau

Notice of Intent to Solicit Outside Opinion Concerning Foster Care Services to Children

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft amendments to 12 MCAR § 2.204, Foster Care-Children. This rule governs the administration and provision of foster care services to children and their families in Minnesota. Authority for this rule is contained in Minnesota Statutes, Chapters 257, 260, and 393. Authority is also

DPW Exh. B

RECEIVED
JUL 26 1983
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed
Amendment of a Rule of the
State Department of Public
Welfare Government Foster Care
for Children (12 MCAR § 2.204)

ORDER FOR HEARING

IT IS ORDERED this 22nd day of July, 1983, that a public hearing on the proposed rules captioned above be held in Conference Room A, Centennial Office Building, Fourth Floor, 658 Cedar Street, St. Paul, Minnesota 55155, on September 9, 1983, commencing at 7:30 a.m., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be given to all persons who have registered their names with the Department of Public Welfare for that purpose and be published in the State Register.

STATE OF MINNESOTA

Commissioner of Public Welfare

ETH-09

DPW Exh. 44

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

RECEIVED
AUG 12 1983
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Amendment of a Rule of the State Department of Public Welfare Governing Foster Care for Children (12 MCAR § 2.204)

NOTICE OF HEARING

A public hearing concerning the above entitled matter will be held in Centennial Office Building, Conference Room A, Fourth Floor, 658 Cedar Street, St. Paul, Minnesota 55155, on September 9, 1983, commencing at 9:30 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to George Beck, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 341-7601 either before the hearing or within five working days after the public hearing ends. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minnesota Statutes, section 14.01-14.56 and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

12 MCAR § 2.204 governs the administration and provision of foster care services to children and their families by the local social services agency when the agency has placement and supervisory responsibilities. The purpose of foster care services to children is to provide substitute family or group care for a child while an intensive effort is made to correct or improve the condition necessitating placement in order to reunite the family or, in the failure of this, to provide some other permanent plan for the child.

Amendments to this rule are proposed to comply with the provisions of federal law, 42 USC 670 et seq, and recent changes in Minnesota law enacted

during the '82 and '83 legislative sessions. These amendments include the establishment of foster care basic maintenance rates; difficulty of care payments to be established by local county boards of commissioners; case plan requirements; and requirements for administrative reviews and dispositional hearings for children in foster care.

The agency's authority to adopt the proposed rule is contained in Minnesota Statutes, section 393.07, subdivisions 1-3; Minnesota Statutes, section 256.01, subdivision 2 (2); Minnesota Statutes, section 257.175; Minnesota Statutes, section 256E.05, subdivision 1; and Minnesota Statutes, section 256.82, subdivision 3.

Attached to this notice of hearing is a fiscal statement giving this fiscal impact of the rule on local public bodies according to the requirements of Minnesota Statutes, section 14.11.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Sandra Erickson, Division of Social Services, Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota 55155 (612) 296-3250. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule, contact Sandy Erickson.

Note: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency, (in the case of the agency's submission or resubmission to the Attorney General).

Minnesota Statutes ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, 1979 supp., as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: 7-22-83

LEONARD W. LEVINE
Commissioner of Public Welfare

ETH-10

PROJECTIONS OF FOSTER CARE MAINTENANCE COSTS

	'84 Caseload $'s	15% rate increase	'85 Caseload $'s	15% rate increase
COUNTY FUNDS:	$43,889,000	$50,472,000	$45,443,000	$52,254,000

As evidenced by the attached table, foster care maintenance payments are expected to increase overall by approximately 15% for the last half of calendar year 1983 (assuming the rule is promulgated by July 1, 1983). For state fiscal year 1984, assuming the entire rate increase would be borne by county government, the increase in county funds would be $6,583,350.00.

On January 1, 1984 there is a rate adjustment in the 0-11 year age group of 15.09%. Data from the Substitute Care Inventory indicates that the 14-17 year old age group is the largest age group in substitute care (46% of all children). The 0-11 year age group is approximately 35% of the total population but tend to remain in foster care the least amount of time. The worst case scenario as depicted above reflects a 15% increase across all age groups. It could be argued that only 35% of the '85 Caseload $'s amount would increase by 15.09% for the last six months of 1984. On January 1, 1985 there would be an across the board rate increase for all age groups depending upon the latest data promulgated by the U.S.D.A. Estimates of the Cost of Raising A Child. For this reason, the 15% increase was depicted as a 15% increase across all age groups. It is not possible to predict with certainty the fiscal impact of increased county costs for just one age grouping, i.e.,0-11 years, given the shortened length of stay, the numbers placed for adoption and data unavailable for costs associated with just this younger population.

Foster care rates effective January 1, 1985 will not be computed until October, 1984.

Initial Clothing Allowance: This new policy allows for 60 Days in which the purchase may be made for a child. The new rate is flexible, " up to ", and is based on the child's needs. Not all children receive an initial clothing allowance. This determination is made by the local social services agency.

In summary, the county costs of foster care maintenance payments may increase by $6.6 million in SFY'84. The number of children in substitute care has been dropping on a steady basis since October'79 10-79 through 10-81 the number of children in care dropped 990 children and projections indicate another drop of nearly 750 children. Increased parental fees and recoveries from third party payors, e.g. insurance, are expected to increase 13% over the next biennium.

CURRENT RATE STRUCTURE (1981)

AGE	Mo. RATE		% INCREASE	
0-3	$ 151		+40.397%	
4-8	$ 192	$184	+10.416%	+15.217%
9-11	$ 211		+ 4.739%	
12-14	$ 251		+16.733%	
15-18	$ 276		+15.942%	

PROPOSED RATE STRUCTURE

AGE	RATE (1983)		RATE (1984)
0-11	$ 212	+15.09%	$ 244
12-14	$ 293		$ 293
15-18	$ 320		$ 320

INITIAL CLOTHING ALLOWANCE WITHIN FIRST 30 DAYS OF PLACEMENT (CURRENT POLICY)

AGE	RATE		% INCREASE	
0-3	$ 68		+114.70%	
4-8	$ 102	$101	+ 43.137%	+44.554%
9-11	$ 135		+ 8.148%	
12-14	$ 236		+ 22.033%	
15-18	$ 271		+ 28.413%	

PROPOSED NEW INITIAL CLOTHING ALLOWANCE WITHIN FIRST 60 DAYS OF PLACEMENT

AGE	RATE (1983)	RATE (1984)
0-11	up to $146	up to $168
12-14	up to $288	up to $288
15-18	up to $348	up to $348

DPW Exh. C

RECEIVED
AUG 12 1983
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Amendment of a Rule of the State Department of Public Welfare Governing Foster Care for Children (12 MCAR §2.204)

AFFIDAVIT OF MAILING

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

That on the 3rd day of August, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of 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 3 day of August, 1983.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 198

DPW&A.D

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

RECEIVED
AUG 12 1983
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Amendment of a Rule of the State Department of Public Welfare Governing Foster Care for Children (12 MCAR §2.204)

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 3rd day of August, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to serving the attached Notice of Hearing 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:

Foster Parents Association

Wendy Johnson

Subscribed and sworn to before me

this 3 day of August, 1983.

Margaret Holt

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

DPW Exh. E

RECEIVED
AUG 12 1983
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Amendment of a Rule of the State Department of Public Welfare Governing Foster Care for Children (12 MCAR §2.204)

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 12:00, P.M., this 3rd day of August, 1983.

Wendy Johnson

RECEIVED DPW Exh. 5 +
AUG 12 1983
ADMINISTRATIVE HEARINGS

TITLE 13 TAXATION
Part 1 Revenue Department
13 MCAR §§ 1.6004, 1.6501-1.6503; and 2019 (adopted) 114

TITLE 14 TRANSPORTATION
Part 1 Transportation Department
14 MCAR §§ 1.7001, 1.7003, 1.7005, 1.7007-1.7009 (adopted).. 30

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Public Welfare

Proposed Amendment to Rule Governing Foster Care for Children (12 MCAR § 2.204)

Notice of Hearing

A public hearing concerning the above entitled matter will be held in Centennial Office Building, Conference Room A, Fourth Floor, 658 Cedar Street, St. Paul, Minnesota 55155, on September 9, 1983, commencing at 9:30 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to George Beck, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415 (612) 341-7601 either before the hearing or within five working days after the public hearing ends. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minnesota Statutes, section 14.01-14.56 and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

12 MCAR § 2.204 governs the administration and provision of foster care services to children and their families by the local social services agency when the agency has placement and supervisory responsibilities. The purpose of foster care services to

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children is to provide substitute family or group care for a child while an intensive effort is made to correct or improve the condition necessitating placement in order to reunite the family or, in the failure of this, to provide some other permanent plan for the child.

Amendments to this rule are proposed to comply with the provisions of federal law, 42 USC 670 et seq, and recent changes in Minnesota law enacted during the '82 and '83 legislative sessions. These amendments include the establishment of foster care basic maintenance rates; difficulty of care payments to be established by local county boards of commissioners; case plan requirements; and requirements for administrative reviews and dispositional hearings for children in foster care.

The agency's authority to adopt the proposed rule is contained in Minnesota Statutes, section 393.07, subdivisions 1-3; Minnesota Statutes, section 256.01, subdivision 2 (2); Minnesota Statutes, section 257.175; Minnesota Statutes, section 256E.05, subdivision 1; and Minnesota Statutes, section 256.82, subdivision 3.

Attached to this notice of hearing is a fiscal statement giving this fiscal impact of the rule on local public bodies according to the requirements of Minnesota Statutes, section 14.11.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Sandra Erickson, Division of Social Services, Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota 55155 (612) 296-3250. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule, contact Sandy Erickson.

Note: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency, (in the case of the agency's submission or resubmission to the Attorney General).

Minnesota Statutes ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, 1979 supp., as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

July 22, 1983

Leonard W. Levine
Commissioner of Public Welfare

PROJECTIONS OF FOSTER CARE MAINTENANCE COSTS

	'84 Caseload $'s	15% rate increase	'85 Caseload $'s	15% rate increase
COUNTY FUNDS:	$43,889,000	$50,472,000	$45,443,000	$52,254,000

As evidenced by the attached table, foster care maintenance payments are expected to increase overall by approximately 15% for the last half of calendar year 1983 (assuming the rule is promulgated by July 1, 1983). For state fiscal year 1984, assuming the entire rate increase would be borne by county government, the increase in county funds would be $6,583,350.00.

On January 1, 1984 there is a rate adjustment in the 0-11 year age group of 15.09%. Date from the Substitute Care Inventory indicates that the 14-17 year old age group is the largest age group in substitute care (46% of all children). The 0-11 year age group is approximately 35% of the total population but tend to remain in foster care the least amount of time. The worst case scenario as depicted above reflects a 15% increase across all age groups. It could be argued that only 35% of the '85 Caseload $'s amount would increase by 15.09% for the last six months of 1984. On January 1, 1985 there would be an across the board rate increase for all age groups depending upon the latest data promulgated by the U.S.D.A. Estimates of the Cost of Raising A Child. For this reason, the 15% increase was depicted as a 15% increase across all age groups. It is not possible to predict with certainty the fiscal impact of increased county costs for just one age grouping, i.e., 0-11 years, given the shortened length of stay, the numbers placed for adoption and data unavailable for costs associated with just this younger population.

Foster care rates effective January 1, 1985 will not be computed until October, 1984.

Initial Clothing Allowance: This new policy allows for 60 Days in which the purchase may be made for a child. The new rate is flexible, "up to", and is based on the child's needs. Not all children receive an initial clothing allowance. This determination is made by the local social services agency.

In summary, the county costs of foster care maintenance payments may increase by $6.6 million in SFY'84. The number of children in substitute care has been dropping on a steady basis since October '79 10-79 through 10-81 the number of children in care dropped 990 children and projections indicate another drop of nearly 750 children. Increased parental fees and recoveries from third party payors, e.g. insurance, are expected to increase 13% over the next biennium.

CURRENT RATE STRUCTURE (1981)				PROPOSED RATE STRUCTURE			
AGE	Mo. RATE	% INCREASE		AGE	RATE (1983)		RATE (1984)
0-3	$151	+40.397%					
4-8	$192	+10.416%	+15.217%	0-11	$212	+15.09%	$244
9-11	$211	+ 4.739%					
12-14	$251	+16.733%		12-14	$293		$293
15-18	$276	+15.942%		15-18	$320		$320

INITIAL CLOTHING ALLOWANCE WITHIN FIRST 30 DAYS OF PLACEMENT (CURRENT POLICY)				PROPOSED NEW INITIAL CLOTHING ALLOWANCE WITHIN FIRST 60 DAYS OF PLACEMENT		
AGE	RATE	% INCREASE		AGE	RATE (1983)	RATE (1984)
0-3	$ 68	+114.70%				
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9-11	$135	+ 8.148%				
12-14	$236	+ 22.033%		12-14	up to $288	up to $288
15-18	$271	+ 28.413%		15-18	up to $348	up to $348

12 MCAR § 2.204 Foster care—children.

A. [Unchanged.]

B. Definitions.

1.-9. [Unchanged.]

10. Foster care maintenance payments. "Foster care maintenance payments" means payments to cover the cost of and the cost of providing a child's food, clothing, shelter, daily supervision, school supplies, and personal incidentals, and reasonable travel to the child's home for visitation. In the case of institutional care ,the term includes the reasonable costs of administration and operation of the institutions which are necessary to provide the things listed in the preceding sentence.

11. Dispositional hearing. A "dispositional hearing" is a hearing held by a family or juvenile court, or another court, including a tribal court, of competent jurisdiction, or by an administrative body appointed or approved by the court, to determine the future status of the child, including whether the child should be continued in foster care for a specified period, should be placed for adoption, or should be continued in foster care on a permanent or long-term basis.

12. Administrative review. "Administrative review" is a review open to the participation of the parents of the child and conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of or the delivery of services to either the child or the parents.

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13. Voluntary placement. "Voluntary placement" is an out-of-home placement of a minor by or with participation of the social service agency, after the parents or guardian of the minor have requested the assistance of the agency and signed a voluntary placement agreement.

14. Voluntary placement agreement. "Voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the social service agency and the parents or guardians of a minor child, which specifies the legal status of the child and the rights and obligations of the parents, the child, and the agency.

15. Difficulty of care payment. "Difficulty of care payment" means a supplemental maintenance payment determined by the local social services agency and based upon an assessment of the child's special needs due to existing physical, mental, or emotional handicaps. A difficulty of care payment does not include payment for services rendered by a licensed foster parent.

C. Services to children in foster care.

1. Service delivery.

a.-g. [Unchanged.]

h. Service plan and review. For those children who are placed in foster family homes, group homes or relatives' homes (unless placement with the relative is planned to be permanent) and for whom the local social service agency has placement ~~and/~~ or supervisory responsibility, the agency shall comply with the ~~following~~ requirements: in (1)-(4).

(1) ~~Service~~ Case placement plan.

~~(a)~~ The agency shall ~~develop, in conjunction with the child's parent(s), or other custodian, the child's legal guardian, and if possible, the child, a service plan which includes:~~

~~(i) the specific reasons for the placement of the child in a foster home, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from his home;~~

~~(ii) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (i), and the time period during which the actions are to be taken;~~

~~(iii) the financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the foster home;~~

~~(iv) the visitation rights and obligations of the parent or parents during the period the child is in the foster home;~~

~~(v) the social and other supportive services to be provided to the parent or parents of the child, the child, and the foster parents during the period the child is in the foster home;~~

~~(vi) the date on which the child is expected to be returned to the home of his parent or parents;~~

~~(vii) the nature of the effort to be made by the social service agency responsible for the placement to reunite the family.~~

~~(viii) the actions to be taken for meeting the special educational needs of the child including the responsibilities of the foster parents and the child's parents.~~

~~(b) The agency shall advise the parents of their right to receive assistance from any person or social service agency and their right to legal counsel in the preparation of the service plan.~~

~~(c) In those situations where the child's condition or behavior may require change before placement can be terminated, the service plan shall include actions to be taken or progress to be made by the child while in placement.~~

~~(d) The visitation plan shall be detailed and shall include, but not be limited to, the date and conditions of the first visit, specific days of visits, specific hours for beginning and ending of visits and special conditions of visitation.~~

~~(e) The agency shall explain to the parents that if the parents are unable to correct the conditions necessary for their child's return home, they could lose their parental rights.~~

~~(f) If the agency cannot comply with any service plan requirement, the agency shall document the reason in the record.~~

~~(2) Six-month administrative review of service plan. The local social service agency shall provide an administrative, supervisory, or conference review at least every six months for each child in placement to determine the appropriateness and adequacy of the service plan. The review shall include persons other than or in addition to the service worker responsible for the case. The administrative review may be waived if the court has reviewed the service plan within that six-month period.~~

~~(3) Review of service plan with parents and child. Within 180 days of the child's initial placement, if the child is still in foster care, the local social service agency shall review the service plan, including in the review all persons involved in the plan's preparation. The review may be waived if the court has reviewed the plan within the 180 day period.~~ prepare a written plan for each child who is placed in a foster home or residential facility. The plan must be prepared before the child is placed unless the child's situation requires immediate placement. If an emergency placement is necessary, the case plan must be prepared within 30 days after the initial placement.

The case placement plan must include the following components:

(a) the agency's assessment of the family, including:

(i) a list of the presenting problems which brought the family to the agency, or a statement of why the agency intervened in the family situation;

(ii) a discussion of services that were provided to prevent the need for the removal of the child from the home, and why the services were not successful, or why the parents requested placement of their child;

(iii) a discussion of alternative plans that were considered and why foster care was chosen;

(iv) a discussion of why the particular foster home or facility was selected, including a description of the facility that was selected, and the reason it was chosen; the reason a foster home was not used if the child was placed in an institution; and the reason why the child was not placed in the local county if the child was placed in another county or state;

(b) a signed agreement among the agency, the parents, and, if appropriate, the child which includes:

(i) an assessment of the specific reasons for the placement of the child in a foster home or institution, including a description of the problems or conditions in the home which necessitated removal of the child from the home;

(ii) the specific actions to be taken by the parents to eliminate or correct the problems or conditions which necessitated placement, and the time period during which the actions are to be taken;

(iii) the financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the foster home;

(iv) the date on which the child is expected to be returned to the home of his parents;

(v) the specific action to be taken by the child, if appropriate, to change behavior which contributed to the need for placement;

(vi) the social and other supportive services to be provided by the agency to assist the parents and the child during the period the child is in the foster home;

(vii) the frequency of contacts of the agency with the parents and the child; and

(viii) the visitation rights and obligations of the parents during the period the child is in the foster home;

(c) an agreement signed by the agency, the parents, the foster parents, and if appropriate, the child which includes:

(i) the authority and responsibility of the foster parents to arrange for medical and dental care for the child;

(ii) the authority and responsibility of the foster parents to arrange for education for the child and to meet with teachers regarding the child's progress;

(iii) the specific action and behavior of the child that the foster parents are to work with;

(iv) the authority and responsibility of the foster parents for supervision of the child;

(v) the plan for the parents to visit the child, which includes the specific days for visits, the specific hours for the beginning and end of each visit, and any special conditions affecting visitation; and

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(vi) the social service to be provided by the agency to assist the foster parents, including the frequency of contacts and the person assigned to them.

(d) the agency shall advise the parents of their right to receive assistance from any person or social service agency and their right to legal counsel in the preparation of the placement plan;

(e) the agency shall explain to the parents that if the parents are unable to correct the conditions necessary for their child's return home, they could lose their parental rights; and

(f) if the agency cannot comply with any placement plan requirement, the agency shall document the reason in the record.

(2) Administrative review. All cases must be reviewed by an administrative panel periodically, but at least once every six months. The review must be open to the parents, the child, and the foster parents. The review must determine:

(a) whether the placement remains necessary and appropriate;

(b) the extent of compliance with the case plan;

(c) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; and

(d) the likely date by which the child may be returned to the home or placed for legal adoption or guardianship.

(3) Petition for court review. As an alternative to the administrative review for children placed in foster care by voluntary agreement, the local social service agency may petition the court pursuant to Minnesota Statutes, section 260.131, subdivision 12, for review of the foster care to determine if placement is in the best interests of the child.

(4) Dispositional hearing. For each child in foster care under court order pursuant to Minnesota Statutes, section 260.191, subdivision 1, the local social services agency shall petition the court for a dispositional hearing pursuant to Minnesota Statutes, section 260.191, subdivision 2, no later than 12 months after the initial dispositional hearing and annually thereafter during the continuation of foster care. For each child in foster care whose parental rights have been terminated and the child made a ward of the commissioner of public welfare, the local social services agency shall petition the court pursuant to Minnesota Statutes, section 260.242, subdivision 2, clause (d) for a dispositional hearing. The dispositional hearing must be held in a juvenile court or a tribal court of competent jurisdiction, or by an administrative body appointed or approved by the court.

When the dates of the dispositional hearing and the periodic review coincide, the dispositional hearing may replace the periodic review. A periodic review cannot substitute for a dispositional hearing.

Children in permanent foster care, whose placement was approved by the court, are excluded from this requirement.

(5) Eighteen-month review of voluntary placements. If the child is not returned to his home within 18 months after his initial placement in a residential facility, the local social service agency shall either return the child to the home of his parents or file an appropriate petition with the court to review the foster care status of the child and make a decision as to the child's continued placement.

i.-k. [Unchanged.]

l. ~~Rates paid to foster homes.~~

~~(1) Rates paid for children in foster care shall be uniform regardless of funding source, and maintenance rates paid for children in foster care shall be established pursuant to 12 MCAR § 2.044. This requirement is waived when the local social service agency is being reimbursed pursuant to 12 MCAR § 2.030, Cost of Care for Mentally Retarded or Epileptic, or Emotionally Handicapped Children.~~

~~(2) When foster care is provided for a child through contract with another public or private agency, maintenance payments to the cooperating agency's foster care facilities shall be determined according to 12 MCAR § 2.044. If the local social service agency is contracting for administrative or social service costs, payments to the cooperating agency shall be an amount which is additional to the maintenance rates established in 12 MCAR § 2.044.~~

(1) The local social services agency shall make payments based on the following maintenance standards:

Age	Monthly Maintenance Standard	Initial Clothing
0-11	$212 ($244 effective January 1984)	up to $146 (up to $168 effective January 1984)
12-14	$293	up to $288
15-18	$320	up to $348

The initial clothing allowance shall be available based on the child's needs during the first 60 days of the initial placement. The state agency shall annually review and revise the maintenance standard based on "USDA Estimates of the Cost of Raising a Child," issued by the United States Department of Agriculture, Agricultural Resources Service, Pub. 1411 (October, 1982).

(2) In addition to the basic maintenance standard, monthly payments for additional maintenance needs shall be made as determined by the local social services agency. The local county board shall establish "difficulty of care" payments for all children in foster care.

(3) When foster care is provided for a child through contract with another public or private agency, foster care maintenance payments and difficulty of care payments shall be determined according to the rate schedule in (1) and (2). If the local social service agency is contracting for administrative or social service costs, payments to the cooperating agency shall be in an amount which is additional to the maintenance rate established in (1) and (2).

(4) The local social service agency may pay a fee for services to foster parents based on the foster parents' skills, experience, or training. This fee is not a maintenance expense.

(5) The local social service agency may, through action by the county welfare board, human service board, or board of county commissioners, establish a local fund of county money through which the agency may reimburse foster parents for the cost of repairing damage done to the foster home by the foster child, and the additional car insurance premium cost of a foster child who possesses a permit or license to drive a car.

m. [Reletter as n.]

D. [Unchanged.]

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 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. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Minnesota Higher Education Coordinating Board

Adopted Rules Governing State Scholarships and Grants-In-Aid; Part-Time Student Grants; Work-Study Grants; Area Vocational-Technical Institute Tuition Subsidy; Assistance for Student Dependents of Minnesota Veterans; State Student Loans; Private College Contracts; and Private Institutions Registration and Approval of Degrees and Names

The rules proposed and published at *State Register*, Volume 7, Number 41, pp. 1449-1463, April 11, 1983 (7 S.R. 1449) are now adopted with the following modifications.

Rules as Adopted

5 MCAR § 2.0604 Terms of loans and grants.

A. ~~Conditions for conversion of loans.~~ Each eligible institution shall be authorized and be responsible for informing any foreign student who receives funds or ~~residency~~ residing status pursuant to the program that the funds are provided initially as a loan and will not be converted to a grant until the student submits ~~written, documentable~~ evidence that the student has returned to his home country within one year of completion of the student's education and has not returned to the United States for five years as a permanent resident.

~~B. Emergency scholarship funds. Prior to the annual report on which appears a loan cancellation involving emergency scholarship funds, the board must approve evidence submitted to the institution by the student. The board shall approve a loan cancellation when the evidence shows that the student has met the requirements in A. The evidence may be notarized statements by the student, notarized statements by persons who know the student, letters from the students with postmarks of the student's country, or similar writings.~~

B.-F. [~~Reletter as C. G~~ Unchanged.]

5 MCAR § 2.0606 Disbursement of funds.

A.-B. [Unchanged.]

C. ~~Accountability.~~ Each participating ~~school~~ institution shall be accountable for any funds disbursed to students under the provisions of these rules ~~as long as loan balances are outstanding~~ and regulations.

~~D. Time for return of funds. Any emergency scholarship fund disbursement plus accrued interest which is outstanding six years after the documented date the student left school shall be remitted to the board according to the procedures established to implement B.~~

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
400 SUMMIT BANK BUILDING
310 SOUTH FOURTH AVENUE
MINNEAPOLIS, MINNESOTA 55415
(612) 341-7600

October 18, 1983

Leonard W. Levine, Commissioner
Department of Public Welfare
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55101

RE: In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to Rule 204 (12 MCAR § 2.204) Foster Care-Children; OAH Docket No. DPW-84-003-PE.

Dear Commissioner:

Enclosed and served upon you by mail, please find the Report of the Hearing Examiner in the above-entitled matter. I also enclose the official record, and I am closing our file in this matter.

Yours very truly,

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

Telephone: 612/341-7606

PCE:dld
cc: Diane Masters
Sandra Erickson

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

DPW-84-003-PE

AFFIDAVIT OF SERVICE BY U.S. MAIL

Donna L. Day, being first duly sworn, hereby deposes and says that on the 18th day of October, 1983, at the City of Minneapolis, county and state aforementioned, she served the attached REPORT OF THE HEARING EXAMINER

OAH Docket No. DPW-84-003-PE

by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Ms. Sandra Erickson
Foster Care Consultant
Division of Social Services
Department of Public Welfare
515 Transportation Building
St. Paul, MN 55155

Ms. Diane Masters
Special Assistant Attorney General
Department of Public Welfare
515 Transportation Building
St. Paul, MN 55155

Leonard W. Levine, Commissioner
Department of Public Welfare
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55101

Donna L. Day
(Signature)

Subscribed and sworn to before me
this 18th day of October, 1983.

Sandra A. Haven
(Notary)

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES AUGUST 21, 1990

HC 00050-25

DPW-84-003-PE

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to Rule 204 (12 MCAR § 2.204) Foster Care-Children.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Administrative Hearings at 9:30 a.m. on Friday, September 9, 1983, in Conference Room A, Fourth Floor, Centennial Office Building, St. Paul, Minnesota. Diane Masters, Special Assistant Attorney General, 515 Transportation Building, St. Paul, Minnesota 55155, appeared as counsel on behalf of the Minnesota Department of Public Welfare (hereinafter "Department"). Sandra Erickson, Foster Care Consultant, Division of Social Services, appeared and testified in support of the proposed amendments on behalf of the Department. The hearing continued until all interested groups or persons had had an opportunity to testify concerning the adoption of the proposed amendments.

This Report shall be available for review to all affected individuals upon request for at least five working days before the agency takes any further action on the rule(s). Pursuant to Minn. Stat. § 14.16 (1982), the Commissioner of the Department of Public Welfare shall, if he proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Commissioner makes changes in the rule other than those recommended herein, he shall submit the rule with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the testimony, exhibits, and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On July 26, 1983, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On August 8, 1983, a Notice of Hearing and a copy of the proposed rules were published at 8 State Register 189-195.

3. On August 3, 1983, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice. Attached to both the published notice and the mailed notice was a fiscal statement regarding the fiscal impact of the rule on local public bodies.

4. On August 12, 1983, the Department filed the following documents with the Hearing Examiner:

(a) The Notice of Hearing as mailed.
(b) The certification that the mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Department's list.
(d) The Statement of Need and Reasonableness.
(e) The names of Department personnel who will represent it at the hearing together with the names of any other witnesses solicited by the Department to appear on its behalf.
(f) A copy of the State Register containing the proposed rules.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 6 State Register 1219-1220 (December 28, 1981).

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

5. The record remained open through September 20, 1983 for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 11 calendar days following the hearing.

6. Statutory authority to promulgate the proposed amendments is contained in: (a) Minn. Stat. § 393.07, subds. 1-3, as amended by 1983 Laws, Chapter 7, § 9; (b) Minn. Stat. § 256.01, subd. 2, as amended by 1983 Laws, Chapter 7, § 3, Chapter 243, § 5 and Chapter 312, Art. 5, § 3; (c) Minn. Stat. § 257.175; (d) Minn. Stat. § 256E.05, subd. 1; and (e) Minn. Stat. § 256.82, subd. 3, as amended by 1983 Laws, Chapter 312, Art. 5, § 5. These statutory provisions authorize the Commissioner to promulgate and administer rules pertaining to all child welfare activities, and to enable the State of Minnesota to be eligible for federal grants-in-aid.

7. The amendments to 12 MCAR § 2.204, are being proposed to enable the State Foster Care Program to comply with the requirements of Title IV-E and IV-B of the federal Social Security Act, 42 U.S.C. 670 (1980). Additionally, revisions to Minnesota law enacted during the 1982-83 legislative sessions compel changes to the current rule. It is necessary for the Foster Care Program to meet federal requirements in order for the State to be eligible for federal reimbursement under the Social Security Act. The enactment of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) has created programatic and fiscal links between Titles IV-B and IV-E. Public Law 96-272 applies to all children in substitute care for whom the State or County agencies have case planning and case supervisory responsibility. Its purpose is to reduce the number of children in foster care by preventitive services and to enable children in foster care to be kept as close as possible to the natural family in the most family-type setting possible.

8. Several sections of the proposed amendments to 12 MCAR § 2.204, were not commented on by the public, either at the hearing or in written comments submitted after the hearing. Many of the statements made at the hearing and written submissions only raised general concerns or questions about the proposed amendments and will not be addressed in this Report. Only amendments

about which specific comments were directed and/or issues of need and reasonableness were raised will be discussed. Except as hereinafter modified, the Hearing Examiner finds that the Department has demonstrated the need for and reasonableness of each section of the proposed amendments to 12 MCAR § 2.204, as amended herein, by an affirmative presentation of facts in the record.

PROPOSED 12 MCAR § 2.204 C.1.h.(1)

9. This section, entitled "Case Placement Plan", sets forth the components of the plan based upon the requirements of both state and federal law. St. Louis and Anoka County commented that the components were too inclusive or extensive and in some ways impractical. The Department stated that the case plan components are a compilation of requirements contained not only in state and federal statute, but also in federal regulations, Department of Health and Human Services policy announcements and federal program instructions and interpretations. Consequently, the Department asserts that although the components are all-inclusive, and perhaps extensive, they are required. The Hearing Examiner finds that the need for and reasonableness of 12 MCAR § 2.204C.1.h.(1) has been demonstrated by the Department. The statement of need and reasonableness carefully sets forth the basis for all of the components of this section.

PROPOSED 12 MCAR § 2.204C.1.h.(1)(b) and (c)

10. Both of these sections provide for an agreement signed by the Agency, the parents, the foster parents, and if appropriate, the child. Several persons commented that the "if appropriate, the child" language was unclear. Consequently, the Department has proposed to amend these sections to read ". . . and if able to understand the meaning of this agreement, the child . . . "As amended, the Hearing Examiner finds that the need for and reasonable of these sections has been demonstrated by the Department.

so amended p. 3, ¶

PROPOSED 12 MCAR § 2.204C.1.h.(1)(c)(i) and (ii)

11. These sections provide that the foster parents are to "arrange" for medical and dental care and education for the child. St. Louis and Anoka County commented that this language is unclear and may be interpreted to mean that the foster parents are liable for the expense of those items. The Department points out, however, that other provisions of the Rule specifically state that that the local agency is responsible for those expenses. Consequently, there should be no confusion. As proposed, the Hearing Examiner finds that the need and reasonableness of these sections has been demonstrated by the Department.

PROPOSED 12 MCAR § 2.204C.1.h.(3)

12. As pointed out by Stearns County, the Department has proposed to amend a clerical error by changing the citation to Minn. Stat. § 260.131, subd. 12 to Minn. Stat. § 260.131, subd. 1.a.

✓ p5

PROPOSED 12 MCAR § 2.204C.1.h.(4)

13. This section provides for dispositional hearings which must be held pursuant to Minn. Stat. § 260.242, subd. 2(d)(as amended by Ch. 312, Art. V, § 35, 1983 Laws). Stearns County commented that the language "children in a permanent foster care" is unclear. The Department agreed, and has proposed to amend the section by adding the language, ". . . by the court pursuant to Minn. Stat. § 260.242, subd. 2(d), are excluded . . . ". This amendment is merely for purposes of clarification and the Hearing Examiner finds it to be both needed and reasonable.

Stearns County also commented that the name and address of the "permanent" foster parents should be made a part of the court's disposition pursuant to the above-cited statute. This requirement was recently enacted by federal regulation contained in 45 C.F.R. 1352.21(e)(1), effective June 23, 1983. The Department stated that because the Minnesota statute was enacted before the issuance of the final federal regulations, no such provision was included in Minnesota law. Consequently, the Department proposes merely to issue this requirement through bulletins until the statute can be changed. The Hearing Examiner points out that this issue is a matter for the courts to determine when issuing dispositional orders.

Anoka County commented that the dispositional hearing requirement should not apply to children who are in adoptive placement awaiting finalization of the adoption. The Department agrees with this position and stated that the concern will be addressed in proposed revisions to 12 MCAR § 2.200, Adoption Rules, which will be scheduled for hearing in December of 1983.

PROPOSED 12 MCAR § 2.204C.1.h.(5)

14. This section provides for an 18-month review of voluntary placements pursuant to the requirements of Minn. Stat. § 257.071, subd. 3. Anoka County commented that the use of the term "residential facility" in this section is unclear because it has not been defined in the rule. The Department stated that the definition of that term is set forth in Minn. Stat. § 257.071, subd. 1, and is unnecessary in these rules. However, if including that definition in these rules would make the rules more clear, the Examiner suggests that the definition be added. The Hearing Examiner does find that the Rule as proposed has been shown to be both needed and reasonable by the Department.

PROPOSED 12 MCAR § 2.204C.1.1.(1)

15. This section provides for an increased monthly maintenance rate for foster care. The current rates have remained the same since July of 1981. The Department stated that costs have increased since that date and the proposed rate is an attempt to approximate current actual costs. Several counties commented that the proposed rates will produce an unreasonable fiscal impact upon the county budgets. The Department stated that the proposed rates will result in an increased financial burden on counties, however, the local

agencies have been aware of these proposed rates for more than six months and have been using those rates when preparing their county operating budgets for calendar year 1984. The Hearing Examiner finds that the Department has demonstrated the need for and reasonableness of the maintenance rates set forth in this section of the Rule.

Several persons commented that the use of the "U.S.D.A estimates of the cost of raising a child" to annually revise the maintenance rates is inappropriate. They argue that Minnesota data only, broken down by regions, should be used for that purpose. The Department stated that it could find no comparable data, in as much detail, available for the State of Minnesota. The Department argued that the U.S.D.A. data is used by the federal government and throughout the United States for the purpose of setting rates and is appropriate for use in Minnesota. The Hearing Examiner finds that the need for and reasonableness of this section of the Rule has been demonstrated by the Department. However, additional investigation should be done in the future to insure that the best data base is used to set the maintenance rates.

Several persons commented that because of the cost disparity which has existed, these rates should be made retroactive to July 1 of this year. The Department commented that retoactivity would place too great a burden on local government budgets to pay lump sum increases. Consequently, a retroactive rule has not been proposed. As stated above, the Hearing Examiner finds this section of the rule, as proposed, to be both needed and reasonable.

PROPOSED 12 MCAR § 2.204C.1.1.(2)

16. This section requires the local county boards to establish "difficulty of care" payments for children in foster care. Many comments were made at the hearing and in written submissions which opposed the county-by-county establishment of these payments. These "commentors" stressed the need for state-wide uniformity. However, Ch. 312, Art. V, § 5 of 1983 laws specifically requires that the Commissioner shall "require county boards to establish difficulty of care payment rates for all children in foster care". Consequently, the statute must be changed in order to allow for a state-wide rate.

PROPOSED 12 MCAR § 2.204C.1.1.(4) and (5)

17. These sections provide that the local service agency "may" pay additional amounts to foster parents if those foster parents have special skills or training, or for reimbursement for damage done by a foster child. Several persons commented that these additional payments should be mandatory and not discretionary. The Department stated that it only has statutory authority to establish maintenance payment rates and require county boards to establish difficulty of care payment rates. Consequently, it is of the opinion that it lacks statutory authority to make such additional payments mandatory. The Hearing Examiner finds that the Department had demonstrated the need for and reasonableness of these sections of the Rule as proposed. Also, that there is no specific statutory authority to authorize mandating the additional pay-

ments. The Hearing Examiner can only suggest that foster care parents and the Department propose legislation which would provide the necessary statutory authority.

The Hearing Examiner points out that the Office of the Attorney General regularly disallows rules which provide for "unbridled agency discretion", i.e. use of the word "may". However, a distinction has been drawn between agency discretion and discretion exercised by the "affected public", the former being impermissible and the latter permissible. In this situation, the "affected public" is the local agencies which must comply with the requirements set forth in the rules. Consequently, no defect has been found.

St. Louis County proposed that § (5) be amended to include reimbursement for damage to the foster parents' person or property in addition to the foster home. The Hearing Examiner suggests that the Department consider this amendment prior to final adoption of these rules. If such an amendment were made, it would not constitute a substantial change to the rules as proposed. amended p.7

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Department gave proper notice of the hearing in this matter.

2. That the Department has fulfilled the procedural requirements of Minn. Stat. § 14.14, subds. 1, 1a and 2 (1982), as amended by Minn. Laws 1983, Ch. 210, § 4 and Ch. 301, § 64, and all other procedural requirements of law or rule.

3. That the Department has documented its statutory authority to adopt the proposed rules, and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3, as amended by Minn. Laws 1983, Ch. 210, § 6, and 14.50 (i) and (ii) (1982).

4. That the Department has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii) (1982).

5. That the additions and amendments to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6, and 9 MCAR §§ 2.110 A. and 2.111 (1980 Ed.).

6. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

7. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Department from further modification of the rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted consistent with the Findings and Conclusions made above.

Dated this 18 day of October, 1983.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

DPW Exh. F

RECEIVED
AUG 12 1983
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Department of Public Welfare's Proposed Adoption of Amendments to Rule 204 (12 MCAR § 2.024) Foster Care-Children

STATEMENT OF NEED AND REASONABLENESS

Supplementary Information:

BACKGROUND

The Adoption Assistance and Child Welfare Act of 1980 (Public Law Number 96-272) governs two Social Security Act programs: the new Title IV-E Program, Federal Payments for Foster Care and Adoption Assistance, and the Title IV-B Program, Child Welfare Services. The law creates links between the two programs with numerous program and fiscal requirements. The requirements of the Act do not just apply to children who are Title IV-E eligible. It is important for the reader to understand that because of these linkages between Title IV-B, the programmatic requirements of the ACT apply to ALL children in substitute care for whom the state/county agencies have case planning and case supervisory responsibility.

The Child Welfare Services program has been a part of the Social Security Act since the Act's inception in 1935. In 1968, Congress transferred this program to Title IV, Part B of the Act. Historically, Title IV-B has provided federal grants to states to establish, extend and strengthen child welfare services. Under this program, services are available to all children, including the handicapped, homeless, neglected and dependent.

In addition to amending Title IV-B, this Act established a new program, the Title IV-E program, Federal Payments for Foster Care and Adoption Assistance, which replaced on October 1, 1982, the Title IV-A foster care program in the states. The Act further required that the state agency responsible for administering Title IV-B also administer Title IV-E and that the state agency assure that these programs are coordinated with Title XX of the Social Security Act.

In Minnesota, the Title IV-A foster care program (AFDC-FC) was governed by 12 MCAR § 2.044 and supervised by the Bureau of Income Maintenance in the Department. Given the above requirements of federal law and the abolition of AFDC-FC, the responsibility for Title IV-E was made a part of the Bureau of Social Services which has been and continues to be responsible for Title IV-B and Title XX of the Social Security Act.

PURPOSE AND SCOPE OF THE ACT

The passage and enactment into law of Public Law Number 96-272 demonstrated a Congressional concern and commitment to provide financial assistance and technical consultation to states to make changes in their child welfare services systems. To reduce the number of children entering foster care, the

law emphasizes the use of preplacement preventive services to help solve or alleviate the family problems that would otherwise result in the child's removal from the home. To reduce the number of children already in foster care, the law requires states to undertake several initiatives, some of which include:

To ensure that children do not remain adrift in the foster care system, a state must implement case plan and case review procedures that periodically assess the appropriateness of the child's placement and reevaluate the services provided to assist the child and the family.

To encourage family reunification, a state must attempt to place a child in close proximity to the family and in the least restrictive (most family-like) setting.

In short, the new law rests on three pillars:

Prevention of unnecessary separation of the child from the parents;

Improved quality of care and services to children and their families; and

Permanency through reunification with parents or through adoption or other permanency planning.

A. INTRODUCTION

The amendments to 12 MCAR § 2.024 are proposed in order that the foster care program conform to the requirements of Title IV-E and Title IV-B of the Social Security Act, 42 USC 670 (1980), and revisions of Minnesota law enacted during the 1982 and 1983 Legislative Sessions. It is necessary for the foster care program to meet these requirements in order for the state to be eligible for federal reimbursements under Title IV-E and Title IV-B of the Social Security Act.

The department authority to revise 12 MCAR § 2.204 and to establish foster care standard rates is found in: Minnesota Statutes section 393.07, subdivision 1, 2, and 3 which provides that the county welfare boards shall comply with the standards, rules and regulations which may be promulgated by the commissioner to comply with the requirements of the federal Social Security Act needed to qualify the state to obtain grants-in-aid under that Act; Minnesota Statutes section 256.01, subdivision 2 (2), which authorizes the commissioner to administer and supervise all child welfare activities, to supervise child-caring and child-placing agencies and institutions, to advise the care of children in boarding and foster homes or in private institutions and to perform all functions relating to the field of child welfare now vested in the State Board of Control; Minnesota Statutes section 257.175 which contains similar references to the general duties of the commissioner concerning enforcement of all laws for protection of defective, illegitimate, dependent, neglected and delinquent children; Minnesota Statutes section 256E.05, subdivision 1, authorizes the commissioner to supervise the community social services administered by the counties

through standard-setting, etc.; and Minnesota Statutes section 256.82, subdivision 3 which requires the commissioner to annually establish minimum standard rates for foster care maintenance payments for all children in foster care and to require county boards to establish difficulty of care payments for all children in foster care.

In federal law, 42 USC 671 (11) and in state law, Minnesota Statutes section 256E.05, subdivision 1, the term "standard" or "standard-setting" is used without definition. In common usage, as defined in Webster's Dictionary, the term "standard" means: "something established for use as a rule or basis of comparison in measuring or judging capacity, quantity, content, extent, value, quality, etc.; criterion set for usages or practices; used as, or meeting the requirements of, a standard, rule, model, etc.; conforming to what is usual; regular or typical; not special or extra." Lacking federal or state definition to the contrary, the department uses the common usage definition of a standard or standard-setting in its proposed revisions of 12 MCAR § 2.204.

B. DEFINITIONS

The following terms are either described in federal laws and/or defined in federal and state law. It is necessary that these terms be defined in this rule so that they: a) have the same meaning as in federal law so as not to jeopardize the state's receipt of federal grants-in-aid under the Social Security Act, and b) have the same meaning and are commonly applied by local social services agencies throughout the state who have the responsibility for the administration of foster care services for children.

10. Foster Care Maintenance Payment. This definition is essentially the same as the federal definition contained in 42 USC 675 (4) except that the term "liability insurance" is deleted. Liability insurance is deleted because the state of Minnesota, pursuant to Minnesota Statute section 245.814, already pays for liability insurance coverage via a separate state appropriation of funds. This insurance premium is paid directly by the state with no cost to the foster parents or the child in care.

11. Dispositional Hearing. This term is not actually defined in federal law but is described in 42 USC 675 (5)(C) and the terms is so defined here.

12. Administrative Review. This term is defined in 42 USC 675 (6).

13. Voluntary Placement. This term is defined in 42 USC 672 (f).

14. Voluntary Placement Agreement. This term is defined in 42 USC 672 (f).

15. Difficulty of Care Payment. As explained in the Background section of this statement, the foster care program had been governed by Title IV-A and administered through 12 MCAR § 2.044 which fixed statewide maintenance payments and difficulty of care payments.

Difficulty of care payments were described in 12 MCAR § 2.044 so as to be a supplemental maintenance expense and thus eligible for federal financial participation under Title IV-A foster care. By describing these payments as a maintenance expense, the department and the local agencies were able to maximize federal reimbursement for foster care expenditures. With the change-over to Title IV-E, federal financial participation is still available for difficulty of care payments which remain a supplemental maintenance expense. Additionally, in January, 1983, President Reagan signed Public Law Number 97-243 which in section 103 defines difficulty of care payments as:

"(1) Difficulty of Care Payments.- The term 'difficulty of care payments' means payments to individuals which are not described in subsection (b)(1)(B)(i), and, which- (A) are compensation for providing the additional care of a qualified foster child which is- (i) required by reason of a physical, mental, or emotional handicap of such child with respect to which the State has determined that there is a need for additional compensation, and (ii) provided in the home of the foster parent, and (B) are designated by the payor as compensation described in subparagraph (A)."

Thus the term difficulty of care payment is defined here so that it will continue to have the same meaning as a maintenance expense under 12 MCAR § 2.204 as it had under 12 MCAR § 2.044; so that the department and the local social services agencies will continue to maximize federal financial participation under Title IV-E; and so that it continues to meet the definition of difficulty of care payment in Public Law Number 97-243 and thus not cause undue financial hardship to foster parents who may receive a difficulty of care payment for their foster child.

C. CASE PLACEMENT PLAN

The majority of the following components are not new in 12 MCAR § 2.204 but, as a result of reorganizing the rule to accommodate additional requirements of federal or state laws, many components of the case plan have a new citation in 12 MCAR § 2.204 and technically should not have been underlined as new material. Both the federal law and state law are specific in what is required to be in the case plan. See Minnesota Statutes section 257.071 and 42 USC 675 (1980). During a federal audit in March, 1983, of compliance with the requirements of 42 USC 670 et seq., the case plan was subject to federal review and compliance. Where the federal law requires consideration of certain factors, this consideration means written documentation in the case plan. There was no "reading between the lines" or any assumptions that a case plan requirement was covered. The case plan component had to be in writing or an exception was taken by the federal audit team. A written case plan is required in 42 USC 675 (1) and Minnesota Statutes section 257.071, subdivision 1. The requirement that it be done within 30 days is found in Minnesota Statutes section 257.071, subdivision 1. See also 45 CFR 1356.21 (d) (1) and (2).

(a)(i) "reason for placement" was formerly cited as C.1.h.(1)(a)(i) and is also required in Minnesota Statutes section 257.071, subdivision 1 (1).

(ii) "services provided to prevent need for removal of the child" is required in 42 USC 671 (a)(15) and 42 USC 672 (a)(1).

(iii) "a discussion of alternative plans that were considered and why foster care was chosen" is required in 42 USC 671 (a)(15)(A).

(iv) "a discussion of why the particular foster home or facility was selected" is required in 42 USC 675 (1).

(b)(i) "reason for placement" was formerly cited as C.1.h.(1)(a)(i) and is also required in Minnesota Statutes section 257.071, subdivision 1 (1).

(ii) "specific actions to be taken by the parents to eliminate or correct the problems" was formerly cited as C.1.h.(1)(a)(ii) and is also required in Minnesota Statutes section 257.071, subdivision 1 (2).

(iii) "financial responsibilities and obligations of the parents" was formerly cited as C.1.h.(1)(a)(iii) and is also required in Minnesota Statutes section 257.071, subdivision 1 (3).

(iv) "date on which child is expected to be returned home" was formerly cited as C.1.h.(1)(a)(vi) and is required in Minnesota Statutes section 257.071, subdivision 1 (6) and in 42 USC 675 (5)(B).

(v) "specific action to be taken by the child" formerly cited as C.1.h.(1)(c) is reasonable and necessary so that when the child is expected to change behavior, attend counseling sessions, or otherwise perform certain tasks in order to be returned home, the child has a clear understanding of what is expected from him in achieving the placement goal.

(vi) "social and other supportive services to be provided" was formerly cited as C.1.h.(1)(5) and is also required in Minnesota Statutes section 257.071, subdivision 1 (5) and is required in 42 USC 675(1).

(vii) "frequency of contacts of the agency with the parents and the child" is required in Minnesota Statutes section 257.071, subdivision 1 (7) in order to document the nature of the effort being made by the local social services agency to reunite the family.

(viii) "visitation rights and obligations" was formerly cited as C.1.h.(1)(a)(iv) and is also required in Minnesota Statutes section 257.071, subdivision 1 (4) and 42 USC 675 (5)(c).

Both Minnesota Statutues section 257.071, subdivision 1 (5) and 42 USC 675 require the agency to specify the social and other supportive services to be provided to the family, the child, and the foster parents. The following components are an inherent part of the agreement between the foster parents, the agency and the parents to provide for specific needs of the child in care so that the foster parents are "fully informed" of the case plan as required in Minnesota Statutes section 257.071, subdivision 1. These components implement the written agreement in (b) above by bringing the foster parent, as the caregiver, into the formalized agreement process. This section recognizes the foster parents' participation and contribution to the purpose of the placement of the child in care.

(c) These specific requirements essentially describe the areas where there can be misunderstanding if the parties are not clear about their respective rights and responsibilities.

(i) "authority and responsibility of the foster parents to arrange for medical and dental care for the child" is reasonable and necessary so that the requirements of C. 1.g.(1) through (5) may be fully implemented by the agency and the foster parents. In order for the foster parents to know what they can do, and have a responsibility to do, it is reasonable that the agreement specify what they are to do if the child becomes ill or is scheduled for a physical or dental examination.

(ii) "authority and responsibility to arrange for education" was formerly C.1.h.(1)(a)(viii) and, in order for the parents and the foster parents to know and agree on the involvement of the foster parents with the child's teacher, it is reasonable that the agreement define what their role is to be.

(iii) "specific action and behavior of the child that the foster parents are to work with" is reasonable and necessary so that the foster parents, who are providing the 24 hour care, are informed of and may be better able to help the child change behavior and return home at the earliest possible date. It is particularly important to define action and behavior the child needs to change when the child is delinquent or determined to be a petty juvenile offender and the probation officer is also involved. Withdrawal or other passive behaviors are equally important and the foster parent needs to be informed of these types of behavior and what actions to take or not to take in helping the child.

(iv) "authority and responsibility of the foster parents for supervision of the child" is reasonable and necessary to define so that the foster parents, the agency and the natural parents agree and understand the format of supervision to be used in the foster home; what the foster parents can do, should do in caring for the child. Such definition may also help the child to accept limits which are agreed to, rather than feeling that they are arbitrarily imposed on him or her.

(v) "the plan for the parents visit" was formerly cited C.1.h.(1)(d) and is reasonable and necessary so that the foster parents are informed of what the visitation plan is for the child; any limitations regarding the visitation plan, e.g., who may visit, when, where and any other restrictions which may have been imposed by the court or agency.

(vi) "social services to be provided by the agency to assist the foster parents" was formerly C.1.h.(1)(a)(v) and is also required in Minnesota Statutes section 257.071, subdivision 1 (5). The local social services agency also provides assistance to the foster parents as required in C.1.f.(6) and (8) of this rule.

(d) This provision was formerly C.1.h.(1)(b) and is also required in Minnesota Statutes section 257.071, subdivision 1 (8).

(e) This provision was formerly C.1.h.(1)(e) and is also required in Minnesota Statutes section 257.071, subdivision 1 (8).

(f) This provision was formerly C.1.h.(1)(f) and is reasonable and necessary so that 1) in the event of a federal program audit, there is written documentation that all factors of the case plan were discussed, noted and not merely overlooked, and 2) in the event of a social services appeal, there is written documentation of why a particular case plan requirements was handled in a certain manner.

(2) (a) through (d) ADMINISTRATIVE REVIEW. This provision is required in 42 USC 675 (5)(B). As the caregiver for the child on a 24-hour basis and the party most likely to have current information on the progress of the child in meeting the placement goals, it is reasonable and necessary that the review be open to the foster parents. The federal law requires that the review be open to the parents, however, it does not mandate that they actually attend. The foster parents is not mandated to attend the review, however, the review would be open to their participation as an active member of the placement plan. The federal law requirements are duplicated in the rule in order to ensure local agency compliance with the requirements that the federal law imposes on the department.

(3) PETITION FOR COURT REVIEW. Because both Minnesota Statutes sections 260.131 and 257.071, subdivision 2 and 42 USC 675 allow for a court to review the foster care status of the child, it is reasonable that this provision be made a part of the rule to avoid any confusion regarding the applicability of the law and to advise local agencies of all the options. The federal law requirements are duplicated in the rule in order to ensure local agency compliance with the requirements that the federal law imposes on the department.

(4) DISPOSITIONAL HEARING. Because both Minnesota Statute section 260.191, subdivision 2., and 260.242, subdivision 2, (d); and 42 USC 675 (5)(c) require the provision of dispositional hearings for children in foster care under court order and for wards of the commissioner still in foster care, it is reasonable that these provisions be made a part of the rule to avoid any confusion regarding the applicability of the law and to advise local agencies of all the options.

Based upon an official HHS interpretation (P.I. 82-06, June 3, 1982) of dispositional hearings and administrative reviews which may occur at the same time, the provision on page 7, lines 2-5 is provided to meet this federal requirement.

The exception for children in permanent foster care on page 7, lines 6 and 7 is provided based upon an HHS interpretation (P.I. 82-06, June 3, 1982, Attachment D); 45 CFR 1356.21 (e)(1); and Minnesota Statutes section 260.242, subdivision 2 (d).

(5) EIGHTEEN MONTH REVIEW OF VOLUNTARY PLACEMENTS. This provision is required in Minnesota Statutes section 257.071, subdivision 3, and 42 USC 675 (5)(c).

L. RATES PAID TO FOSTER HOMES. The department's authority to annually establish foster care maintenance rates and to require county boards to establish difficulty of care payments is found in Minnesota Statute section 256.82, subdivision 3. 42 USC 671 (A)(11) also requires periodic review of the amount paid as foster care maintenance payments and, because this review must be done by the state agency, the rule provisions are necessary in order to establish the minimum standards which the department will apply in performing this review.

The foster care rates which were mandated by 12 MCAR § 2.044 had been in effect since March, 1976 and were adjusted by the Minnesota Legislature during its biennial budgeting process. The percentage increase which was awarded to AFDC grant recipients was also used to adjust the foster care rates. The latest rate* was:

AGE OF CHILD	MONTHLY FOSTER CARE PAYMENT
0 - 3	$ 151
4 - 8	192
9 - 11	211
12 - 14	251
15 - 18	276

JULY, 1981*

The original foster care rates established by 12 MCAR § 2.044 in 1976 were set based upon the recommendation of a foster care rate-setting committee.

Prior to the enactment of Minnesota Statutes section 256.82, subdivision 3, the department had undertaken a project to determine the costs of raising a child in substitute care. Pre-1976, before foster care rates were mandated in 12 MCAR § 2.044, the department had used the "USDA ESTIMATES OF THE COST OF RAISING A CHILD" issued each October by the U.S. Department of Agriculture in order to issue foster care rates (low, moderate and high rates) in Social Services Manual Volumes as a guide to local social services agencies when establishing foster care rate payments. The department went to this publication during this project to again ascertain the costs of raising a child in Minnesota.

Prior to convening a payment standards committee, department staff have undertaken a project to research existing background data and develop three possible rate structures for consideration on a statewide basis. The following data was utilized in this preparatory project by department staff:

1. Recommendations received by the department from its "Notice of Intent to Solicit Outside Opinion" published in the State Register of Monday, December 28, 1981.

2. A five year trend report on foster care costs which is based on actual county claims for foster care reimbursement.

3. A projection of foster care maintenance payments based on the provisions of 12 MCAR § 2.044 and the projected legislative increases proposed for AFDC grant recipients for the upcoming biennium.

4. The findings of an indepth analysis of the USDA Estimates of the Costs of Raising a Child based on the levels of "economy -including farm thrifty," "low," and "moderate" levels.

   Rates were also depicted in terms of "urban average," "rural nonfarmaverage," and "farm average."

Item #4 above requires some additional explanation of how this 57 page publication covering all the states was used for projecting costs in Minnesota. The USDA provides three categories based on residence: urban, rural nonfarm, and farm. The urban and rural nonfarm are additionally broken down into regional categories with Minnesota coming under the North Central Region. Urban and rural nonfarm are then subdivided into the cost level categories of Economy, Low, and Moderate. Farm has four cost categories: thrifty, low, moderate, and liberal and also offers separate figures for boys and girls.

Figures are offered for each year of age beginning with "under one" and ending with age "17." In order to produce the age categories used in 12 MCAR § 2.044, the department simply added together the figures for each age (i.e., 0-3 = under 1 yr. + 1 yr. + 2 yrs. + 3 year) and then average them out by dividing by 4 and then dividing by 12 months to get monthly cost breakdowns. Since USDA did not provide figures for 18 year olds, the 17 year old category was counted twice in the averaging process.

In the farm category the department combined the data for boys and girls and averaged it by dividing by two. The farm data differed from the other two residence categories in that cost breakdown was provided for four categories. These did not directly correspond to the three category breakdowns of the urban and rural nonfarm groups. The department used the "farm thrifty," "low," and "moderate" categories because the liberal category appeared abnormally high in relationship to all other data on trends (#2 above), actual costs (#2 above), and the projected cost of living data available at the time.

The "medical care" column in all categories was not included in the calculations because children in foster care have their medical and dental needs met through Title XIX Medical Assistance, private insurance vendors, or through all county child welfare funds.

Having completed all the research and assembled the data and other recommendations received (#1 above), the commissioner convened at "Foster Care Payments Standards Committee" composed of four representatives from the county agencies and four representatives from the Foster Parents Association. A copy of the preliminary data and the materials provided to the Committee are made a part of this statement in order to advise the reader of the scope of the data; its official sources; how the three levels (A-B-C) were arrived at; and to also assist the reader to understand the reasonableness of the final figures which have been incorporated into the proposed maintenance rate changes.

Based upon letters from foster parents, social workers, and agency directors received as a result of the Notice of Intent to Solicit Outside Opinion; quarerly meetings with the State Foster Parent Association; and other comments from foster care providers, there appeared to be a consensus that the rate paid for infants and pre-teens was too low based on actual costs over the past few years (since the original development of basic rates in 1976). The rates for 12-14 and 15-18 year olds had been running fairly close to actual costs. The major adjustment needed to be made for the younger foster child.

Using all the available data submitted by the department and the schedules proposed by the counties and the Foster Parents Association, the Committee developed a proposed new statewide average "B" schedule as follows:

AGE OF CHILD	BASIC MAINTENANCE RATE & EFFECTIVE DATE	
0 - 11 years	$212 eff. 1983	$244 eff. January 1, 1984
12 - 14	$293 eff. 1983	$293 eff. January 1, 1984
15 - 18	$320 eff. 1983	$320 eff. January 1, 1984

Due to the major fiscal impact on county budgets associated with the increases in the 0-11 year old age group, the committee as a whole recommended that this increase be "phased-in" over two years, i.e., grant an 87 percent increase in 1983 with the promulgation of the new rates and the remaining 13 percent effective January 1984.

AGE OF CHILD	OLD RATE	RATE ON JANUARY 1, 1984	INCREASE
0-3	$ 151	$244	+ $ 93/mo.
4-8	192	244	+ $ 52/mo.
9-11	211	244	+ $ 33/mo.

This proposed phase-in would lessen the fiscal impact and assist county agencies in their budgeting requirements rather than have to contend with a $93 per month per child immediate increase for the 0-3 year old and other younger age groups respectively.

These same rationale were applied by the committee in establishing the initial clothing allowances specified in the rule amendments...to lessen the fiscal impact during the first year of the rate changes. The initial clothing allowance was also adjusted upward and phased-in for the 0-11 year old age group and were based on the monthly clothing allowance already contained in the basic maintenance rate and then multiplied by twelve months. This standard contains the provision "up to" a certain dollar amount. The maximum dollar amount is not an automatic entitlement for every child; accordingly, the discretionary language is necessary and reasonable so that the child's individual needs may be assessed at the time of placement. The previous policy under 12 MCAR 2.044 of assessment within 30 days was too restrictive based upon comments received in writing during the Notice of Intent to Solicit Outside Opinion and oral comments by the Committee. Therefore, the dollar maximums were raised and the time frame was extended from within the first 30 days of placement to within the first 60 days of placement.

Not all children entering foster care require a "wardrobe"; however, the very young and frequently those being placed from a neglect situation are most often in need of an initial clothing allowance.

1. (3) "foster care provided through a contract" was formerly cited as C.1.(2) in 12 MCAR § 2.204 and is not new language.

1. (4) "fees for service" was formerly cited as C.1.(2) in 12 MCAR § 2.204 and is not new language.

1. (5) "permissive language to establish local funds for specific purposes": This matter was brought to the attention of the department by the St. Louis County Attorney's Office; the Foster Parents Association; and several local social services agency administrators. It has been common practice for many years in counties to reimburse foster parents for costs associated with damage done by a foster child which was not covered by the homeowner's insurance policies; however, upon review by several attorneys, it was determined that such permissive language to allow reimbursement to the foster parent did not exist in state agency rules governing foster care or any other social services. It appears reasonable and necessary that county agencies be provided with the authority to establish such a fund to pay for non-reimburseable costs associated with damages caused by the foster child. Such out-of-pocket expenses should not have to be paid by a party not liable for the damage done by the foster child.

   Of particular concern with the teenage foster child was the additional premium cost for the foster parents of having a foster child taking driver's education classes and driving the family car. The statewide liability insurance policy does not cover this form of liability and it is reasonable that county agencies be allowed permission to provide for such a contingency. It is an unnecessary

fiscal burden placed upon foster parents who care for teenage children and permissive language, such as that proposed, would allow local agencies to help offset the costs of caring for teenage foster children who wish to learn how to drive a car....a virtual necessity these days for most every person in society.

No expert witness will be called.



COMMISSIONER
DEPARTMENT OF PUBLIC WELFARE

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED AMENDMENT OF A RULE OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING FOSTER CARE FOR CHILDREN (12 MCAR §2.204)

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.

Diane Masters
Special Assistant Attorney General

Dated: 11/1/83

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED AMENDMENT OF A RULE OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING FOSTER CARE FOR CHILDREN (12 MCAR §2.204)

Affidavit of Mailing Notice of Submission to the Attorney General

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

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

That on the 3rd day of November, 1983, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Wendy Johnson

Subscribed and sworn to before me

this 3rd day of November, 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 THE PROPOSED AMENDMENT OF A RULE OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING FOSTER CARE FOR CHILDREN (12 MCAR §2.204)

Notice of Submittal to the Attorney General

To All Interested Persons:

Pursuant to your request and in accordance with Minnesota Statutes, Section 14.16 and Rule HE 102, PLEASE TAKE NOTICE that the above-captioned rule has been submitted to the Attorney General's Office on November 1, 1983 for review as to form and legality. Pursuant to Rule ATTYGEN 305, any person may question the legality of the above-captioned rule within ten (10) days after receipt of the rule by the Attorney General. Thereafter, the Office of the Attorney General shall conduct its review. If you desire to question the legality of the above-captioned rule, 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 after the hearing and before submission to the Attorney General you may contact Sandy Erickson, 4th Fl. Centennial Building, St. Paul, Minnesota 55155 (612)296-3250.

