

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1037

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 6-7-84
DATE FOR REVIEW
DATE DUE 6-14-84

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

Approved 6-14-84 mjc Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 6-15-84 Revisor approved 6/8/84 disapproved

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✓ Rule as Adopted

Rule as Proposed

✓ Order Adopting 5.30.84 Date

Notice of Intent to Solicit Outside Opinion SR. 8.8.83 + comment. not submitted

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavits of Mailing Notice or rulemaking
3.14 + 3.15.84 At least ~~30~~ 20 days prior to ~~hearing~~/adoption

Mailing list Certificate

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

N/A Hearing Examiner's Report

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

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

Statement of Need and Reasonableness

Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

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

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : LEONARD W. LEVINE
Commissioner/Dept. Human Services
Attn: DEBORAH HUSKINS
Special Assist./Attorney General

DATE: 6/14/84

FROM : MARTHA J. CASSERLY MJC
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of The State Dept. of Human Services Temporary Rule 20 (12 MCAR §§) 2.02001-2.02011 [Temporary]) GOVERNING GRANTS TO COUNTY BOARDS FOR SEMI-INDEPENDENT LIVING SERVICES FOR MENTALLY RETARDED PERSONS.

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.

cc: Ms. Kathy Burek
Mr. Duane Harves

MJC: sa

AG copy

Department of Public Welfare

Adopted Temporary Rules Governing Semi-Independent Living Services for Mentally Retarded Persons

Temporary Rules as Adopted

12 MCAR S 2.02001 [Temporary] Authority, purpose, and applicability.

A. Authority. Minnesota Statutes, section 252.275, subdivision 6, authorizes the commissioner to adopt rules to govern grant applications, criteria for approval of applications, allocation of grants, and maintenance of program and financial statements for county or human service boards applying for state grants for semi-independent living services for mentally retarded persons.

B. Purpose. The purpose of 12 MCAR SS 2.02001-2.02011 [Temporary] is to establish procedures to implement a statewide program of semi-independent living services to assist county boards in reducing their utilization of intermediate care services in state hospitals and community residential facilities for persons who are mentally retarded.

C. Applicability. Rules 12 MCAR SS 2.02001-2.02011 [Temporary] govern the county boards' grant proposal, submission and reporting, and the department grant approval of semi-independent living services for mentally retarded persons. Only county boards may apply for a state grant for semi-independent living services. Rules 12 MCAR SS 2.02001-2.02011 [Temporary] govern only semi-independent living services funded under appropriations made available under Minnesota Statutes, section 252.275. Rules 12 MCAR SS 2.02001-2.02011 [Temporary] do not govern semi-independent living services funded as a home and community-based service under Minnesota Statutes, section 256B.50, or semi-independent living services funded as a community social service under Minnesota Statutes, sections 256E.01 to 256E.12.

12 MCAR S 2.02002 [Temporary] Definitions.

A. Applicability. As used in 12 MCAR SS 2.02001-2.02011 [Temporary], the following terms have the meanings given to them.

B. Administrative operating costs. "Administrative operating costs" has the meaning given it in 12 MCAR S 2.05313 [Temporary] C.

C. Case management. "Case management" has the meaning given it in ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100.

D. Client. "Client" means an adult who is mentally retarded, 18 years of age and older, and receiving semi-independent living services as provided in ~~12 MCAR S 2.018~~ 12 MCAR SS 2.02001-2.02011 [Temporary].

E. Commissioner. "Commissioner" means the commissioner of the Department of Public Welfare.

F. County board. "County board" means that body of duly elected officials responsible for the governance of the county under the authority of Minnesota Statutes, sections 375.02 to 375.55. When a human service board has been established under Minnesota Statutes, section 402.02 to 402.10, it shall be considered to be the county board for the purposes of 12 MCAR SS 2.02001-2.02011 [Temporary].

G. Department. "Department" means the Department of Public Welfare.

H. Financially responsible county board. "Financially responsible county board" means the county of financial responsibility as defined in Minnesota Statutes, section 256E.08.

I. Host county contract. "Host county contract" has the meaning given it in ~~12 MCAR S 2.160~~ Minnesota Rules, parts 9550.0100 to 9550.2900.

J. Individual program plan. "Individual program plan" has the meaning given it in ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100.

K. Individual service plan. "Individual service plan" has the meaning given it in ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100.

L. Interdisciplinary team. "Interdisciplinary team" has the meaning given it in ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100.

M. Intermediate care facility for mentally retarded or ICF/MR. "Intermediate care facility for mentally retarded" or "ICF/MR" means a program licensed to serve mentally retarded residents under Minnesota Statutes, section 252.28, and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which are also certified as an intermediate care facility for mentally retarded under Code of Federal Regulations, title 42, section 442 (as amended through December 1983).

N. Local matching money. "Local matching money" means local ~~actual cash revenues~~ money made available by a county board for the provision of semi-independent living services.

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O. Local social service agency. "Local social service agency" has the meaning given it in ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100.

P. Mentally retarded person. "Mentally retarded person" has the meaning given it in ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100.

Q. Provider. "Provider" means an individual, organization, or agency providing semi-independent living services and meeting the requirements of 12 MCAR S 2.02004 [Temporary] and ~~12 MCAR S 2.018~~ Minnesota Rules, parts 9525.0500 to 9525.0660. For the purpose of these rules a provider may be a county board that provides semi-independent living services directly or a contractor of the county board.

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R. Request for proposal. "Request for proposal" means a written proposal by the county board specifying the number and types of clients to be served, the amount and type of services to be provided based upon the identified needs of the clients, the client outcomes to be expected, the criteria for provider selection, and the service cost or budget limitations, if any.

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S. Semi-independent living services. "Semi-independent living services" means services which include training,

counseling, instruction, supervision, and assistance provided in accordance with the client's individual program plan provided for fewer than 24 hours per day. Services may include assistance in budgeting, meal preparation, shopping, personal appearance, counseling, and related social support services needed to maintain and improve the clients' functioning.

T. Service site. "Service site" means the building where clients reside while receiving semi-independent living services.

U. Unit of service. A "unit of service" means one hour of staff time spent on the activities of developing, implementing, coordinating, ~~and~~ or evaluating a client's program plan. A unit of service is limited to:

1. direct contact activities involving direct contact with the client either face-to-face or over the phone directed at the attainment of the individual service plan goals and objectives;

2. collateral activities which means direct verbal or written contact with professionals or others relating to the client which is directed toward the attainment of the individual service plan goals and objectives; and

3. individual program planning activities, which means attending the client's interdisciplinary team meetings, assessing the client's functioning levels, developing and reviewing the client's quarterly and annual program plans, and charting and reporting on the client's progress toward individual service objectives.

12 MCAR S 2.02003 [Temporary] Client eligibility.

A. Client eligibility. The county board may receive state reimbursement under 12 MCAR SS 2.02001-2.02011 [Temporary] for a person who is:

1. determined to be mentally retarded in accordance with the procedures of ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100; and is 18 years of age and older;

2. a resident of an ICF/MR, who would otherwise remain in an ICF/MR if semi-independent living services were not provided, or the resident is determined by the local social service agency

to be at risk of institutional placement and in need of semi-independent living services. At risk of institutional placement means that the client would be placed into a long-term intermediate care facility for mentally retarded persons within one year if semi-independent living services were not provided; and

3. ~~eligible for~~ meets the categorical requirement of disability used in the Medical Assistance Program. The person must have a current federal or state determination of disability by the Social Security Administration or a state disability determination by the Department of Public Welfare's medical review team.

B. Exceptions. Individual client exceptions to having a federal or state disability determination may be made when it is demonstrated that the person meets the criteria in A.1. and A.2. of this rule and the Mental Retardation Division approves the exception. Application for individual exceptions must be submitted in writing by the financially responsible county board to the mental retardation division. Individual exceptions will be reviewed and determined by the mental retardation division in consultation with the state medical review team within 30 days of the receipt of the county board's request unless additional information is required. In determining whether an exception will be allowed the Mental Retardation Division will consider whether the person would be placed into an ICF/MR within one year if semi-independent living services were not provided. The application for exception shall include a psychological report indicating the severity of mental retardation, a report on the client's social and adaptive behavior, and an assessment of the client's probability of placement into an ICF/MR within one year.

C. Appeals. If a client receiving semi-independent living services is no longer determined to be disabled and has appealed that determination, the client continues to be eligible for semi-independent living services until the final determination of the appeal.

D. Loss of eligibility. If a client is finally determined

to no longer be disabled, the client is considered eligible for semi-independent living services for the remainder of the grant period.

E. Transfers from ICF/MR. Any client taken from an ICF/MR and placed in a semi-independent living service is eligible to receive three consecutive years of semi-independent living services reimbursement regardless of ~~their~~ the medical assistance eligibility or disability status.

12 MCAR S 2.02004 [Temporary] Approved provider.

A. Approved provider. A provider is approved to receive state reimbursement from a responsible county board for semi-independent living services under 12 MCAR SS 2.02001-2.02011 [Temporary] when:

1. the provider has a current license to provide semi-independent living services in accordance with Minnesota Statutes, sections 252.28 and 245.781, and ~~12 MCAR S 2.0118~~ Minnesota Rules, parts 9525.0500 to 9525.0660;

2. the provider provides semi-independent living services to no more than eight clients per service site. More than eight clients may be served at a service site if fewer than 25 percent of the occupants of the building are receiving semi-independent living services. Service sites where more than four clients are served shall not be adjacent to or within any existing group residential facility or another semi-independent living services site where more than four clients are served. A provider licensed to provide semi-independent living services ~~on January 1, 1983~~ as of the effective date of these rules that is not in compliance with this provision, shall submit a plan of compliance to the county board in which it is located by January 1, 1985. The plan of compliance shall not exceed two years and must be approved by the commissioner under the provisions of ~~12 MCAR S 2.185~~ Minnesota Rules, parts 9525.0010 to 9525.0100. The plan must provide for full compliance within two years of its submission; the provider is not approved to receive state reimbursement unless the commissioner approves the plan.

A county board may apply to the commissioner for an

exception to 12 MCAR S 2.02004 [Temporary] A.2. based upon the lack of appropriate and adequate housing available to mentally retarded persons. The application for the exception shall demonstrate that the county proposal is based upon the individual program needs of the clients, assures that services are provided in the least restrictive setting, and avoids the excessive concentration of mentally retarded persons within any service site, town, municipality, or county of the state.

B. Hiring displaced state hospital staff. Each county board shall assure directly or put it in the contract with a provider, that reasonable efforts are made to hire qualified employees of state hospital mental retardation units who have been displaced by reorganization, closure, or consolidation of state hospital units. The county board shall:

1. send its county's request for proposals for the provision of semi-independent living services to the state hospital designated to serve its county's mentally retarded persons at the same time the proposal is sent to other providers; and

2. require that the semi-independent living services providers in the county send all job postings or advertisements to the county's designated state hospital personnel department for mentally retarded.

C. County board and provider contract. When a county board contracts for semi-independent living services, there must be a written host county contract between the county board and the semi-independent living services provider before they are eligible for state reimbursement provided under 12 MCAR SS 2.02001-2.02011 [Temporary]. The contract must specify:

1. the procedures for monitoring of the provider's compliance with 12 MCAR S 2.02004 [Temporary];

2. the method of payment by the county board to the provider, in which the hourly rate and the units of service by the categories defined in 12 MCAR S 2.02002 [Temporary] and their administrative operating costs associated with providing semi-independent living services must be stated;

3. that reporting and maintenance of records must be consistent with the reporting and recording requirements of 12 MCAR SS 2.02001-2.02011 [Temporary]; and

4. that services to be provided must be directed at the attainment of the goals and objectives of each client's individual service plan as authorized by the county of financial responsibility.

12 MCAR S 2.02005 [Temporary] Reimbursable services.

A. Reimbursable services. A county board is eligible for state reimbursement for semi-independent living services when the services are directed at maintaining or improving a client's functioning level. Reimbursable services include, but are not limited to, supervision, assistance, counseling, or training in the following areas of service:

1. meal planning and preparation;
2. shopping;
3. first-aid training;
4. money management and budgeting;
5. administration of medications;
6. telephone and other public utility usage;
7. personal appearance and hygiene;
8. apartment or home maintenance and upkeep;
9. use of community emergency resources;
10. rights and responsibilities of community living;
11. social, recreational, and transportation skills; and
12. appropriate social behaviors.

B. Authorization for services. Semi-independent living services shall be authorized by the financially responsible county board or its designee before the services are reimbursable. This authorization must indicate the amount and type of semi-independent living services to be provided, the service costs, and the expected client outcome or outcomes of providing semi-independent living services.

C. Unapproved providers. Semi-independent living services delivered by a provider not meeting the provisions of 12 MCAR S 2.02004 [Temporary], will not be reimbursed.

D. Services to a person in an ICF/MR. Semi-independent living services provided to a person while he or she resides in an ICF/MR shall be reimbursed under 12 MCAR SS 2.02001-2.02011 [Temporary] only when:

1. the amount of services does not exceed a total of 20 hours while the person resides in ICF/MR; and

2. the services have resulted in the person being placed into a semi-independent living arrangement.

E. No preclusion or substitution for day programs or occupations. Semi-independent living services provided which preclude the client from participation in the appropriate day program or occupation, or provided as a substitute for the appropriate day program or occupation, shall not be reimbursed. This provision does not prohibit reimbursement of semi-independent living services provided to clients during the day who are working on a part-time basis or seeking employment.

12 MCAR S 2.02006 [Temporary] Application process.

A. Application forms and deadlines. The commissioner shall notify county boards of the deadlines and provide application forms for submission of proposals for grants under Minnesota Statutes, section 252.275.

B. Grant proposals. In order to qualify for a grant under Minnesota Statutes, section 252.275, the county board shall submit to the commissioner two completed copies of the annual proposal. A county board may submit its semi-independent living services proposal as part of its community social service plan. The proposal must at least:

1. describe the proposed semi-independent living services program or changes in the service program from the previous year to be provided under the grant;

2. state the measurable semi-independent living services program goals and objectives or changes in the service program goals and objectives from the previous year to be accomplished with the grant;

3. specify the projected annual service cost, semi-independent living service vendor, living arrangement, day

occupation, projected number of service hours, hourly rate, and public assistance eligibility for each client to be served; and

4. include a budget showing total projected income and expenditures from all sources for the proposed semi-independent living services program and the methods used in projecting expenditures.

C. Review of proposals. The commissioner shall evaluate proposals submitted in accordance with 12 MCAR SS 2.02001-2.02011 [Temporary] for approval. The criteria used for reviews of the proposals must include:

1. the degree to which the proposal reduces or limits the county board's use of long-term intermediate care for mentally retarded persons in state hospitals and community facilities according to Minnesota Statutes, section 252.28;

2. the degree to which the budget for services are based upon reasonable cost projections and methodologies; and

3. the compliance with 12 MCAR SS 2.02001-2.02011 [Temporary].

D. Approval of applications. The commissioner shall base approval of applications and budgets for semi-independent living services on their compliance with Minnesota Statutes, section 252.275 and 12 MCAR SS 2.02001-2.02011 [Temporary].

E. Compliance with applicable laws and rules. To be eligible for state reimbursement under 12 MCAR SS 2.02001-2.02011 [Temporary], the county board and its contracting providers and subcontractors shall comply with:

1. Minnesota Statutes, section 245.825, and applicable rules governing the use of aversive and deprivation procedures;

2. Minnesota Statutes, chapter 13 governing the collection, security, and dissemination of records; and

3. Minnesota Statutes, section 626.557 and applicable rules governing reporting of maltreatment of vulnerable adults.

If a county board does not comply with these statutes and rules, it will not be reimbursed under 12 MCAR SS 2.02001-2.02011 [Temporary].

F. Adjustment of proposals. The commissioner shall adjust

county proposals as necessary to assure compliance with Minnesota Statutes, section 252.025 and the provisions of 12 MCAR SS 2.02001-2.02011 [Temporary].

G. Notice of grant award. The commissioner shall give written notice of the grant award determinations to the county boards.

12 MCAR S 2.02007 [Temporary] Use of state funds.

A. Reimbursement amounts. County boards shall be paid by the state agency based on their actual expenditures for semi-independent living services to eligible clients and the rate of state reimbursement determined by the commissioner in C. for the grant period. The amount of state reimbursement to a county board must not exceed the amount of the state grant award made to the county board for the grant period.

B. Other income. If a county board or a provider receives any income other than county money as a reimbursement for service costs also funded through state or local matching money under Minnesota Statutes, section 252.275, then:

1. this income shall be applied first to the local share to reduce the local share; and

2. if the income exceeds the local share of the approved service costs, the commissioner must reduce the state grant by the amount that the income exceeds the local share.

C. Rate of state reimbursement. The actual percentage of the total cost of semi-independent living services paid by the commissioner shall be the percentage of total expenditures for services budgeted by county boards and approved by the commissioner for reimbursement for the grant period prorated against the state appropriations for the period. The commissioner shall work with county boards to adjust proposals as necessary to comply with Minnesota Statutes, section 252.275, subdivision 4. State reimbursement shall not be more than 95 percent or be less than 80 percent of the cost of semi-independent living services for eligible clients. Priority for funding shall be given to eligible clients who have received semi-independent living services in the previous grant period

and continue to need services during the proposed grant period.

D. Board and lodging expenditures. Expenditures for board and lodging are not reimbursable as semi-independent living services. Board and lodging expenses are costs of:

1. normal and special diet food preparation and service;

2. linen, bedding, laundering, and laundry supplies;

3. housekeeping, including cleaning and lavatory supplies;

4. maintenance and operation of the building and grounds, including fuel, electricity, water, supplies and parts and tools to repair and maintain equipment and facilities; and

5. allocation of salaries and other costs related to these areas.

E. Case management and county administrative costs. Case management and county administrative costs are not reimbursable as semi-independent living services. If the county board is the provider of the services, the ~~actual~~ units of direct ~~semi-independent-living~~ services provided by agency staff shall be reimbursed as defined in 12 MCAR S 2.02002 [Temporary]. Semi-independent living services provided by the case manager assigned to the client shall not be reimbursed under these rules. FF25

12 MCAR S 2.02008 [Temporary] Fiscal and client reporting.

A. Records. The county board and its contracting providers and subcontractors shall maintain records to document compliance with 12 MCAR SS 2.02001-2.02011 [Temporary] and with the goals and objectives in the approved application.

B. Reports. The county board shall use forms provided by the commissioner to report the use of funds for the previous grant period under Minnesota Statutes, section 252.275. The reports must consist of quarterly fiscal reports to ensure tracking of state expenditures for semi-independent living services and an annual program report describing the types of clients served and the amount and types of services provided. County boards shall submit quarterly fiscal reports within 20 days of the end of the quarter and annual program reports within 20 days of the end of the grant year. A county board may integrate these reports into its reports for community social

services.

C. Financial records. The county board and its contracting providers and subcontractors shall maintain financial records, using generally accepted accounting principles, in a manner that enables expenditures to be easily compared with the approved budget, all sources of income readily identified, and documentation available for all expenditures.

D. Audits. The county board and its contracting providers and subcontractors shall make available for audit inspection all records required by 12 MCAR SS 2.02001-2.02011 [Temporary] upon request by the commissioner.

E. Retention of records. Unless an audit in process requires a longer retention period, the county board and its contracting providers and subcontractors shall retain a copy of the following records required by 12 MCAR SS 2.02001-2.02011 [Temporary] for at least four years:

1. the program and fiscal reports required in B. and C.;

2. records of specific payments made and income received; and

3. all other records.

12 MCAR S 2.02009 [Temporary] Budget revision and adjustments, new awards.

A. Increase of a grant. The commissioner may increase a grant award to a county for semi-independent living services when:

1. it has been determined that unused grant money is available under 12 MCAR S 2.02010 [Temporary];

2. the grant increase is within the limits established under Minnesota Statutes, section 252.275, subdivision 4; and

3. the county expenditures for semi-independent living services, which are eligible for reimbursement, exceeded their budget projections.

B. State payments, reductions. Payments shall be in the form of an initial advance, with subsequent quarterly payments contingent upon receipt of a completed quarterly financial report from the county board on forms provided by the

commissioner. If actual expenditures by the county board and its contracting providers and subcontractors are less than provided in its approved budget, the commissioner shall reduce the quarterly payments so that the grant remains within the limits in 12 MCAR S 2.02007 [Temporary].

C. New awards. The commissioner may make new grant awards for other proposals approved for funding within the provisions of Minnesota Statutes, section 252.275 from unused funds that are available under 12 MCAR S 2.02009 [Temporary] B. and 12 MCAR S 2.02010 [Temporary].

12 MCAR S 2.02010 [Temporary] Reduction, termination, and return of grants.

A. Unnecessary funds. If the commissioner determines, in consultation with a county board, that the total grant award to that county will not be ~~earned~~ needed during the grant period, the commissioner may reduce the grant award by the amount determined not to be needed. The commissioner shall notify the affected county board within 30 days of the grant award reduction.

B. Improper use of funds. If the commissioner determines that funds are not being used according to the approved application and budget, all or part of the grant must be terminated upon 30-day notice to the county board with a copy to the provider. The commissioner must require repayment of any funds not used according to the approved application and budget.

12 MCAR S 2.02011 [Temporary] Appeal process.

If the commissioner receives a written appeal from the county board within the 30-day-notice period, reconsideration by the commissioner in which the county board may state its reasons and present evidence, shall be provided before the grant is reduced, terminated, or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice ~~of~~ by certified mail.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 15 1984
Joan Anderson Growe
Secretary of State

10:05 AM

APPROVED AS TO FORM AND LEGALITY
June 14 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassely
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE STATE DEPARTMENT OF HUMAN SERVICES TEMPORARY RULE 20 (12 MCAR §§ 2.02001-2.02011 [Temporary]) GOVERNING GRANTS TO COUNTY BOARDS FOR SEMI-INDEPENDENT LIVING SERVICES FOR MENTALLY RETARDED PERSONS.

ORDER ADOPTING TEMPORARY RULES

The above-entitled matter was published in the State Register on March 19, 1984 as proposed temporary rules pursuant to Minnesota Statutes, sections 14.29-14.36 (1982). After providing interested and affected persons an opportunity to submit written data and reviews within 20 days of publication date, reviewing and considering the concerns and views, and determining that the above-captioned rules are needed and reasonable:

NOW THEREFORE, IT IS ORDERED that these rules identified as DPW Temporary Rule 20 (12 MCAR §§ 2.02001-2.02011 [Temporary]) are adopted on this 30th day of May, 1984, pursuant to the authority vested in me by Minnesota Statutes, sections 14.29-14.36 (1982) and the laws of 1983, chapter 310.

Date: 5/30/84

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

LEONARD W. LEVINE

FD-40

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Proposed Temporary Rules Governing
Grants to County Boards for Semi-Independent
Living Services (12 MCAR 2.02001 - 2.02011
Temporary)

ORDER FOR PUBLICATION
OF A TEMPORARY RULE

IT IS ORDERED this 5th day of March, 1984, that the proposed temporary rule in the above-entitled matter be published in the State Register.

LEONARD W. LEVINE
Commissioner of Public Welfare

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF PROPOSED TEMPORARY RULES GOVERNING GRANTS TO COUNTY BOARDS FOR SEMI-INDEPENDENT LIVING SERVICES (12 MCAR §§2.02001-2.02011 Temporary)

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 15th day of March, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to serving the attached Notice of Intent to Adopt Temporary Rules 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 Minneosta, Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following agencies:

MN Developmental Achievement Center Association
MN Association for Retarded Citizens
Department of Vocational Rehabilitation

Wendy Johnson

Subscribed and sworn to before me

this 15 day of March, 1984.

Margaret Holt

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

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF PROPOSED TEMPORARY RULES GOVERNING GRANTS TO COUNTY BOARDS FOR SEMI-INDEPENDENT LIVING SERVICES (12 MCAR §§2.02001-2.02011 Temporary)

AFFIDAVIT OF MAILING

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

That on the 14th day of March, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Temporary Rules 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 15 day of March, 1984.

Margaret Holt

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

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF PROPOSED TEMPORARY RULES GOVERNING GRANTS TO COUNTY BOARDS FOR SEMI-INDEPENDENT LIVING SERVICES (12 MCAR §§2.02001-2.02011 Temporary)

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §14.14 subd. 1, that their names be placed on file with and maintained by the Department of Public Welfare for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 4:00, P.M., this 14th day of March, 1984.



STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE STATE DEPARTMENT OF HUMAN SERVICES TEMPORARY RULE 20 (12 MCAR §§ 2.02001-2.02011 [Temporary]) GOVERNING GRANTS TO COUNTY BOARDS FOR SEMI-INDEPENDENT LIVING SERVICES FOR MENTALLY RETARDED PERSONS.

FINDING OF FACT AND CONCLUSIONS

I. INTRODUCTION

The above-entitled matter was published in the State Register on March 19, 1984 (8 S.R.2106-2112) as a proposed temporary rule pursuant to Minnesota Statutes, sections 14.29-14.36 (1982). After proper notice required by Minnesota Statutes, sections 14.29-14.36 (1982), was served upon all persons, associations, and other interested groups registered with the State Department of Welfare for that purpose, and after affording interested and affected persons an opportunity to submit written data and views within 20 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable, I find the following.

Before the official publication of the rule, the Department published a notice of intent to solicit outside opinion (8 S.R.211, August 8, 1983). Subsequently, the Department relied heavily on an advisory task force composed of representatives of various groups to be affected by the rule. The task force and the Department were able to develop consensus regarding most aspects of the proposed rules.

II. ANALYSIS OF COMMENT AND DEPARTMENT RESPONSE

One letter of comment was received regarding the published rules. In addition, five letters were received earlier in response to the solicitation for outside opinion. These six letters are hereafter referred to as "the letters." Listed below is the Department's response to each of the comments and suggestions made. As is required by the procedures in Minnesota Statutes, sections 14.29-14.36 (1982) for the promulgation of temporary rules, none of the amendments adopted below constitute a substantial change from the published rules.

Based upon an analysis of comments received from August, 1983 through April, 1984, on the drafts and the proposed rule (12 MCAR §§ 2.02001-2.02011 [Temporary]) the following changes are being made to the proposed temporary rule as published in the State Register on March 19, 1984.

1. 12 MCAR § 2.02002 [Temporary] C, page 2, line 8, delete "12 MCAR § 2.185" and add "Minnesota Rules, Parts 9525.0010 to 9525.0100." This change is necessary to assure that reference to another rule is consistent with the reference in Code of Minnesota Rules.

2. 12 MCAR § 2.02002 [Temporary] D, page 2, line 11, delete "12 MCAR § 2.018" and add "12 MCAR §§ 2.02001-2.02011 [Temporary]." This change is necessary to assure that this reference to another rule is consistent with the reference in the Code of Minnesota Rules, and that the definition of client only refers to persons receiving reimbursement under these rules.

3. 12 MCAR § 2.02002 [Temporary] I, page 2, line 27, delete "12 MCAR § 2.160" and add "Minnesota Rules, parts 9550.0100 to 9550.2900." This change is necessary to assure that this reference to another rule is consistent with the reference in the Code of Minnesota Rules.

4. 12 MCAR § 2.02002 [Temporary] J, page 2, line 29, delete "12 MCAR § 2.185" and add "Minnesota Rules, parts 9525.0010 to 9525.0100." This change is necessary to assure that this reference to another rule is consistent with the reference in the Code of Minnesota Rules.

5. 12 MCAR § 2.02002 [Temporary] K, page 2, line 31, delete "12 MCAR § 2.185" and add "Minnesota Rules, parts 9525.0010 to 9525.0100." This change is necessary to assure that this reference to another rule is consistent with the references in the Code of Minnesota Rules.

6. 12 MCAR § 2.02002 [Temporary] L, page 2, line 33, delete "12 MCAR § 2.185" and add "Minnesota Rules, parts 9525.0010 to 9525.0100." This change is necessary to assure that this reference to another rule is consistent with the references in the Code of Minnesota Rules.

7. 12 MCAR § 2.02002 [Temporary] N, page 3, line 8, delete the term "actual cash revenues" and add the term "money." This change is necessary in order to clarify and simplify this sentence.

8. 12 MCAR § 2.02002 [Temporary] O, page 3, line 11, delete "12 MCAR 2.185" and add "Minnesota Rules, parts 9525.0010 to 9525.0100." This change is necessary to assure that this reference to another rule is consistent with the references in the Code of Minnesota Rules.

9. 12 MCAR § 2.02002 [Temporary] P, page 3, line 13, delete "12 MCAR 2.185" and add "Minnesota Rules, parts 9525.0010 to 9525.0100." This change is necessary to assure that this reference to another rule is consistent with the references in the Code of Minnesota Rules.

10. 12 MCAR § 2.02002 [Temporary] Q, page 3, line 17, delete "12 MCAR 2.018" and add "Minnesota Rules, parts 9525.0010 to 9525.0100". "For the purpose of these rules a provider may be a county board that provides semi-independent living services directly or a contractor of the county board." This first change is necessary to assure that this reference to another rule is consistent with the references in the Code of Minnesota Rules. The additional language is to clarify that county boards may provide semi-independent living services directly and assures that all references to provider in these rules apply to county boards when they provide semi-independent living services directly, unless otherwise specified.

11. 12 MCAR § 2.02002 [Temporary] R, page 3, line 21, after "provided," add "based upon the identified needs of the client." This change is necessary to clarify that the amount and types of services requested in a county's proposal are based upon the identified needs of the client to be served under the proposal.

12. 12 MCAR § 2.02002 [Temporary] U, page 3, line 36, delete "and" and replace with the term "or"; on page 4, line 4, after "plan," add "goals and objectives"; and on page 4, line 8, after "plan" add "goals and objectives." These changes are necessary to clarify that each hour spent in any of the areas is considered a unit of service and that the activities must be directed at the attainment of the goals and objectives of the individual service plan.

13. 12 MCAR § 2.02003 [Temporary] A.1., page 4, line 20, delete "12 MCAR 2.185" and add "Minnesota Rules, parts 9525.0010 to 9525.0100." This change is necessary to assure that this reference to another rule is consistent with the references in the Code of Minnesota Rules.

14. 12 MCAR § 2.02003 [Temporary] A.3., page 4, line 31, delete the terms "eligible for" and replace with the term "meets." This change is necessary to clarify that a person must meet the categorical disability requirements used in the medical assistance program.

15. 12 MCAR § 2.02003 [Temporary] B, page 5, line 4, after "rule" add "and the Mental Retardation Division approves the exception." This change is necessary to clarify that exceptions must be approved by the Mental Retardation Division before reimbursement is provided under these rules.

16. 12 MCAR § 2.02003 [Temporary] B, page 5, line 10, after "required." add "In determining whether an exception will be allowed the Mental Retardation Division will consider whether the person would be placed into an ICF/MR within one year if semi-independent living services were not provided. The application for exception shall include a psychological report indicating the severity of mental retardation, a report on the client's social and adaptive behavior, and an assessment of the client's probability of placement into an ICF/MR within one year." These changes are necessary to clarify the criteria which will be used by the Mental Retardation Division in its approval of exceptions and clarify the content of the application for exception.

17. 12 MCAR § 2.02003 [Temporary] E, page 5, line 23, delete "their" and replace with the term "the." This is a grammatical change.

18. 12 MCAR § 2.02004 [Temporary] A.1., page 5, line 32, delete "12 MCAR 2.018" and add "Minnesota Rules, parts 9525.0500 to 9525.0660." This change is necessary to assure that this reference to another rule is consistent with the references in the Code of Minnesota Rules.

19. 12 MCAR § 2.02004 [Temporary] A.2., on page 6, lines 5 and 6, delete "on January 1, 1983" and add "as of the effective date of these rules, that is" and delete the comma on line 6. The first change is necessary to assure that this provision applies to all programs licensed to provide semi-independent living services and the second change is grammatical.

20. 12 MCAR § 2.02004 [Temporary] A.2., page 6, line 10, delete "12 MCAR § 2.185" and add "Minnesota Rules, parts 9525.0010 to 9525.0100." and on line 17, after "The" add "application for the." These changes are necessary to assure that this reference to another rule is consistent with the reference in the Code of the Minnesota Rules and to clarify that the application for exception must meet criteria listed in this section of the rule.

21. 12 MCAR § 2.02004 [Temporary] C.4., page 7, line 20, after "plan" add ",as authorized by the county of financial responsibility." This change is necessary to clarify the relationship between the host county contract and the authorization for services by the county of financial responsibility.

22. 12 MCAR § 2.02005 [Temporary] B, page 8, line 7, after "reimburseable." add "This authorization must include the amount and type of SILS to be provided, the service costs, and the expected client outcome or outcomes of providing semi-independent living services." This change is necessary to clarify the content of the authorization for services by the county of financial responsibility.

23. 12 MCAR § 2.02005 [Temporary] E, on page 8, after line 23, after "reimbursed." add "This provision does not prohibit reimbursement of semi-independent living services provided to clients during the day who are working on a part-time basis or seeking employment." The purpose of this addition is to clarify that the client working part time or seeking employment can receive semi-independent living services reimbursement even if provided during the day.

24. 12 MCAR § 2.02007 [Temporary] C, page 10, line 34, after "boards" add "and approved by the Commissioner for reimbursement." This change is necessary to clarify that the county's semi-independent living services budgets are to be approved by the Commissioner before they are considered in the allocation of state funds.

25. 12 MCAR § 2.02007 [Temporary] E, page 11, line 22, delete "actual" and "direct", line 23, delete "semi-independent living" and line 24, after "reimbursed" add "as defined in 12 MCAR § 2.02002 [Temporary]. Semi-independent living services provided by the case manager assigned to the client shall not be reimbursed under these rules." The purpose of this change is to assure that the unit of service defined in 12 MCAR § 2.02002 is consistently applied whether the county provides semi-independent living services directly or contracts for the provision of semi-independent living services. Prohibiting reimbursement for semi-independent living services provided by the client's case manager eliminates the potential conflict of interest which could otherwise result if a case manager were responsible for providing case management and direct services to the same client.

26. 12 MCAR § 2.02010 [Temporary] A, page 13, line 19, delete the term "earned" and replace with the term "needed." This change is necessary to assure the consistent use of terms in this section.

27. 12 MCAR § 2.02011 [Tempoary] page 14, line 1, delete the term "of" and replace with the term "by." This change is a grammatical change.

Other than the amendments provided above the rules as adopted are identical to the rules as they were proposed in the March 19, 1984 State Register. The rules shall be submitted to the Attorney General and to the revisor of statutes for review as required by Minnesota Statutes, sections 14.29-14.36 (1982). Now, therefore, it is ordered that in light of the fact that the need for and reasonableness of these rule amendments have been demonstrated, the temporary rules, as amended, identified as 12 MCAR §§ 2.02001-2.02011 [Temporary] governing grants to county boards for semi-independent living services for mentally retarded persons are hereby adopted and shall become effective on May 30, 1984.

Dated: 5/30/84

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES



LEONARD W. LEVINE
Commissioner

FD-38

copy to Debbie Hokens 4/17



April 16, 1984

Robert Meyer
Mental Health Bureau
Department of Public Welfare
Fourth Floor
Centennial Building
St. Paul, MN 55155

Dear Bob:

ARRM makes the following comments regarding "Proposed Temporary Rules Governing Semi-independent Living Services for Mentally Retarded Persons."

Section 2.02004.A.2: Existing providers should be "grandfathered" and the new restrictions should apply only to new providers. The 1983 should be 1985; and the year 1985 should be 1987. It also appears that the "plan of compliance" would require more than two years. Suggest that five years might be more reasonable.

Section 2.02004.C: It would seem that the move toward greater management and control by county boards would tend to preclude counties as providers of SILS. Contract monitoring requires an arm's-length relationship between the county and the service provider. This is lost when the county is a service provider.

Thank you for this opportunity to respond.

Sincerely,

Harold Tapper
Executive Director

HT:js

ARRM
ASSOCIATION OF RESIDENCES FOR THE RETARDED IN MINNESOTA
459 RICE ST. SUITE 302-B
ST. PAUL, MINN. 55103
(612) 291-7475

ARRM
ASSOCIATION OF RESIDENCES FOR THE RETARDED IN MINNESOTA



April 9, 1984

Robert Meyer
Mental Health Bureau
Department of Public Welfare
Fourth Floor
Centennial Building
St. Paul, MN 55155

Dear Bob:

Following our conversation of this date, ARRM will submit written comments on "Proposed Temporary Rules Governing Semi-Independent Living Services for Mentally Retarded Persons" on Wednesday, April 11. Our comments will be delivered to DPW by 4:30 p.m., on that date.

Thank you for your consideration in this matter.

Sincerely,

Harold Tapper
Executive Director

HT:js

459 RICE ST. SUITE 302-B
ST. PAUL, MINN. 55103
(612) 291-7475

DEC 8 1983

six acres associates
11748 xeon street coon rapids mn 55433
612/755-1103

Dec. 2, 1983

Bob Meyer
Department of Welfare

Re: SILS Funding Rule 20

page 2 Subd 5
Do we need to solicit their applications or is this the county responsibility?

page 2 Subd 7
No indication here that this funding rule has any interest in assisting mentally handicapped or developmentally disabled individuals interested in achieving independence from their parents home, but who would not be placed in an institution.

12 MCAR 2.02001
B.
Another purpose is to provide necessary support for developmentally disabled persons as not all persons will be labelled mentally retarded.

O.
Services should also include use of leisure time skills.

12 MCAR 2.02003
A. #3 and #4
Virtually this statement would exclude a large percentage of present SILS participants.

D.
People who are long term ICF-MR involvement, could need easily more than two years of SILS.

E. Exceptions need criteria and procedures for obtaining.

12 MCAR 2.02004

A.#3
This only makes sense for new SILS programs, otherwise good SILS programs (like ours) will be forced to close its programs. We feel strongly that being close to an ICF-MR has allowed us to serve more difficult behavior people and more medically involved people and lower functioning people. The ICF-MR has also helped group home residents adjust to SILS programs and given group home residents incentives to move to SILS. This section of the rule is not going to insure good programs or good community integrated programs. This is accomplished by vision, goals and committment by good providers, county people, SILS participants and community people.

12 MCAR 2.02005
D.
Doesn't this conflict with 12 MCAR 2.02004 A. #3

A general comment is that individuals with behavior problems and medically involved people may not be able to be served in SILS environment.

Mary Tjosvold

Mary Tjosvold
Six Acres Semi-Independent
Program

HENNEPIN

COMMUNITY SERVICES DEPARTMENT
MENTAL RETARDATION DIVISION
A-1400 Government Center
Minneapolis, Minnesota 55487

January 12, 1984

Mr. Robert Meyer
Mental Retardation Division
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Dear Mr. Meyer:

The November 8, 1983 draft of Proposed DPW Rule 20 governing grants to county boards for semi-independent living services has been reviewed by this department. The attached comments and recommendations suggest some areas for further clarification and modifications.

Sincerely,

Julie Gottesleben

Julie Gottesleben
Mental Retardation Division

et

DPW Rule 20

Page	Section	Comments
12 MCAR 2.02002 Definitions		
2	U	Unit of Service: A standard definition for the state is recommended. However, a "service unit" is generally based upon an hour of "direct contact" with a client. Staff costs for other associated activities such as collateral contacts, and planning, reporting, etc. have been figured in to the cost. These activities are probably kept to a basic minimum for implementing a plan, when providers can only bill for direct client contact. By allowing providers to bill separately for other activities, the amount of these activities, and thus the total cost per client may be increased.
12 MCAR 2.02003 Client Eligibility		
3	A3	Client eligibility: must a client be a current recipient of Medical Assistance in order to be eligible for SILS if they have a state, or more likely, a federal disability determination (on RSDI or SSI)?
12 MCAR 2.02004 Approved Provider		
4	A2	In some cases, a program may provide a clustered SILS program for more than eight clients at a site under a SILS Rule 18 license. However, SILS funds may not be requested for some or all of the individuals at that site. Since this is a funding rule, it is recommended that the size limitation apply only to programs actually funded by SILS grants. -In addition, it is assumed that programs that are licensed and begin receiving SILS funds between July 1, 1983 and the effective date of this rule will also need to submit a plan of compliance. The rule should address programs approved during this time period.
4	B	Counties may be encouraged to send requests for proposals and SILS providers to send job postings to state hospitals, but this section should be revised to make it optional and not a requirement for funding.
12 MCAR 2.02005 Reimbursable Services		
5	B	It is good that the responsible county or designee must authorize services before they are reimbursable. For several months Hennepin County has required formal division approval/authorization prior to placement.
5	D	The addition of 20 hour (maximum) for billable services to clients still residing in an ICF/MR is a welcome addition and funding clarification since some SILS assistance is generally needed to help clients make the necessary transition.

Page	Section	Comments
12 MCAR 2.02005 Reimbursable Services - continued:		
6	E	Some clients may be waiting for placement in a day program, be working only part-time or in the process of seeking employment. It seems appropriate that the SILS staff could assist with some vocational skills, i.e. help with job exploration, setting up informational or actual job interviews, assist with job applications, etc. Staff could also provide other types of SILS training during available day time hours - not as a "substitute" for other day programming, but as a legitimate way to address major service needs for independent living. A recommendation is made to reword this section so it is more flexible and thus addresses various client situations.
12 MCAR 2.02006 Application Process		
6	B 3 & 4	Counties may be able to project number of clients to be served, income and expenditures, but client-specific information, including the vendor used and demographics, is only available for current clients continuing in the program. Future clients are generally not identified until actually referred, which is usually later in the year. Client information is more complete when provided at the end of the grant year rather than at the time of application.
12 MCAR 2.02007 Use of State Funds		
7	B	The proposed application of outside funds (first to the local share and then to the state share) is supported.
7	C	It is helpful to have a range 80-95% for the rate of reimbursement to assist in county planning and budgeting (previously done prior to the state's notification of the rate).
8	E	Case management and administrative costs: "If the county board is the provider of SILS, the actual units of direct SILS service provided by agency staff will be reimbursed." This implies that county boards providing SILS services are reimbursed only for direct client services, while other providers have a different unit of service definition. The same definition should be used regardless of who the provider is. Some confusion could be avoided if county SILS staff can be separate from case management staff.

JG:et
January, 1984

SEP 9 1983

GROUP HOMES OF WINONA, INC.
377 MAIN ST. • (507) 452-1021 • 252 W. WABASHA ST. • (507) 454-5377
WINONA, MINNESOTA 55987

September 8, 1983

Bob Meyer
Department of Public Welfare
Mental Retardation Division
Centennial Office Building
St. Paul, Minnesota 55155

Dear Mr. Meyer:

I am writing as a follow-up to our telephone conversation yesterday. I request that you consider my concerns as a part of your discussions with the committee working on the Rule 20, SILS funding rule.

It is my understanding that the intent of the SILS rule is to prevent large groups of developmentally disabled persons from living at the same site even though they may be living in separate apartments. It is intended that SILS clients live in apartments at sites of not more than eight persons who are receiving services. This limitation on the number of persons per site creates an extreme difficulty for our organization.

We are currently in the process of developing an apartment project, using a HUD 202 loan and tied into Section 8 rent subsidies. The plan is for 24 units including two family units and twenty-two individual units for developmentally disabled persons. This project has been in development for over two years and at this time our investment has been quite extensive including consultant, architect and contractor work as well as earnest money investment for the land.

The history of this apartment project goes back to 1978 when we first started providing support services to developmentally disabled people as they moved from our ICF/MR facility. At that time there was no Department support for SILS, but we were able to provide the services through a CETA grant program. We have recognized the need for low income housing in order to meet the growing need for semi-independent living. Many of our ICF/MR residents as well as individuals who are currently on our waiting list and in the community have been unable to attain semi-independent living due to the lack of low income housing. Because of this need we made an application to HUD for a 202 loan in May, 1981. The project was not funded that year but was resubmitted in July, 1982, I talked with the licensing division regarding DPW requirements at that time. I was told that no DPW requirements needed to be met except for Rule 18 licensing as it applied to the SILS services provided to the individual residents. It is now, after committing a large investment to this project, that we learn of the Rule 20 regulations being drafted that would limit the number of persons living at one site to eight. Although not all of the people who will be occupying the apartments in our project will require SILS services it is our projection that eighteen to twenty people may need some supportive services. We feel that in order to provide this much needed low income housing it is essential to also provide corresponding services that will include an emphasis on community integration and self sufficiency. The individuals who are currently on the waiting list for apartments and those who are preparing for movement from ICF/MR are fairly self sufficient individuals who are utilizing community

resources to the maximum. Although they may need assistance with money management, shopping and some cooking skills development they will not require extensive individualized programming. The intent of this project is not to "warehouse" as you suggested, but rather to provide opportunities for semi independent living. Yet, understanding that without services those opportunities will not be possible for most of the people who will benefit. As you can see from the history of this project we are not merely jumping on the band wagon. Rather we have been responding to the need of the community over a period of several years.

I have reviewed your suggestions for complying with the 8 person rule and have concluded that none are feasible.

1. To limit the number of persons receiving services in the building to eight, although renting to other developmentally disabled people: This would be extremely difficult if not impossible in that, again, it would limit the number of people who might be able to move from ICF/MR placement. It would also deny services to many eligible people who may not then be able to maintain independent living status.

2. To reduce the size of the project: As I mentioned to you before the HUD loan process is very stringently designed and reduction at this time would mean dropping the project, causing us severe losses which we are unable to absorb as a non-profit agency.

3. Rent to other people besides developmentally disabled such as elderly or physically disabled: Again, HUD's restrictions allow the use of our loan only as housing for disabled. In addition, we would not be able to meet the needs of the intended population by instead providing housing to other groups such as elderly for whom there there is already sufficient housing in the community.

I hope that you will consider this problem in your work with the Rule 20 task force. Some provision must be made to assure that new rules don't totally destroy the long and earnest efforts of providers such as ourselves. We recognize that the changes that are in process are a very positive step toward community integration and service improvement for Minnesota citizens who are developmentally disabled. However, we ask that you and those who are charged with the rule making tasks also keep in mind the excellent services that providers throughout the State have to offer and take advantage of the fact that there are tremendous strides already being made in our communities. It will do us all well to utilize our strengths and work in harmony toward our common goals.

I ask that you provide copies of this letter to the members of the Rule 20 task force and that as a group you consider alternatives for regulating the number of clients per site.

I look forward to hearing from you regarding the committee's response.

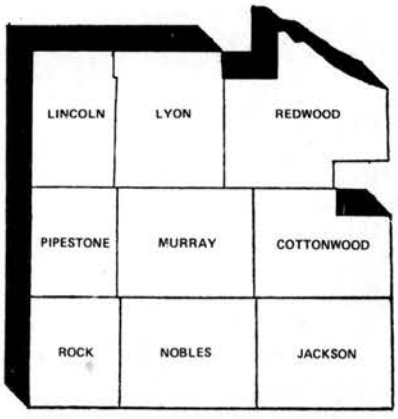
Sincerely,

Sharon Kannenberg

Sharon Kannenberg
Executive Director

SK/pew

Southwest Regional Development Commission



Jerry Chasteen, *Executive Director*
Telephone 507-836-8549

AUG 23 1983

Carl Hauschild, *Chairman*
Milford Gentz, *Vice-Chairman*
Harlin Owens, *Secretary*
Paul Mettling, *Treasurer*

2524 Broadway Avenue • Box 265 • Slayton, Minnesota 56172

August 22, 1983

Ardo Wrobel, Director
Mental Retardation Program Division
Department of Public Welfare
4th Floor Centennial Building
St. Paul, MN 55155

Dear Ardo,

I would like to formally comment on the Semi-Independent Living Services Program (SILS) since outside opinion is being requested in the August 8th State Register.

In working closely with the Region 8 Family Service Agencies, I know the frustration that they feel whenever they must complete the application forms for SILS funds. It is very difficult if not impossible for them to estimate how many clients will need SILS services in the upcoming year. Many of the family service agencies must make a dozen calls throughout the state to rehabilitation agencies to determine how many of their clients may in fact move on to SILS during the upcoming year. And as the year progresses, these estimated numbers are not close to reality. The clients they planned on moving into SILS didn't while maybe a few others did.

I would strongly recommend that the program change drastically from a grant allocation program to a client reimbursement program. The funds should be folded into Community Social Services Act (CSSA) or somehow be done on a client reimbursement rather than a grant that each county must apply for. In the past, because of the lengthly and complicated grant application form, several counties in my region have simply not applied for the funds because it was simplier to fund them through CSSA.

If the Department of Public Welfare is serious about its attempt to move persons with disabilities into less restrictive settings, the Department should seriously examine and change its SILS programs by streamlining it and

making it much easier for each county to use the funds to help its clients. The ultimate goal of the program is to help persons with disabilities live as independently as possible but the goal is being sidetracked by the Department's desire for tracking clients. The clients would be served better if the funds could reach each county without the formalized application.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Gloria Vande Brake

Gloria Vande Brake
DD Coordinator

GVB/blk

AUG 24 1983

Minnesota Governor's Planning Council on Developmental Disabilities

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

August 22, 1983

Mr. Bob Meyer
Mental Retardation Program Division
Department of Public Welfare
4th Floor Centennial Building
St. Paul, Minnesota 55155

Re: Allocation of State Grant Funds for Semi-Independent Living Services (SILS) for persons who are Mentally Retarded.

Dear Bob:

This statement is in response to an August 8, 1983 notice in the State Register by the Mental Health Bureau of the Department of Public Welfare soliciting outside opinion concerning the allocation of state grant funds for Semi-Independent Living Services (SILS) for persons who are mentally retarded. Issues to be considered before grant applications are reviewed are outlined below.

A review panel should be set up to review applications. The panel should include persons knowledgeable about skills needed by developmentally disabled persons to live independently and how to teach such skills.

Persons knowledgeable about community resources used by SILS programs as well as funding sources for payment for services to participants should be considered for participation on the panel. Finally, a consumer who has successfully completed a program might be a helpful participant. A specific procedure to be followed if a conflict of interest exists between a panel member and a grant applicant should be developed.

Criteria must be developed for review and comparisons of applications. The criteria might include:

- number of people to be served
- needs of people to be served
- are persons with multiple handicaps or behavior problems to be served, and

- do the services being proposed match the needs that have been identified?

- Is another program providing similar services in the area?

- If some services will be provided by other agencies, what evidence is there to indicate the willingness/ability of these agencies to provide services?

Several budget items should be examined in all applications. Is the amount of funds being requested appropriate in view of the tasks being proposed? If a match, whether cash or in-kind is needed, has one been provided and is it allowable and sufficient? Are there any items in the budget for which SILS funds may not be used? With reference to personnel, are the numbers, salaries and qualifications appropriate to the project?

The items outlined above and other relevant questions should be included on a rating form to be independently completed for each project by individual panel members and staff. Meeting minutes covering panel actions and individual review forms for each project should be kept by Department of Public Welfare staff for each grant cycle.

Your consideration of our comments is appreciated.

Cordially,

Colleen Wieck

Colleen Wieck, Ph.D.
Executive Director

CW/bl

MR Division
May, 1984

ANALYSIS OF INPUT ON PROPOSED RULE ON SILS FUNDING 12 MCAR §§ 2.02001 - 2.02011 [Temporary]
RECEIVED FROM AUGUST, 1983 THROUGH APRIL, 1984

Page Number	Issue	Discussion	Department Action
12 MCAR §2.02001			
A.	Authority Does the SILS provider need to solicit grant application from the county or it is the county's responsibility to apply for grant funds? (Six Acres, 12/2/83)	It is the county's responsibility. A provider of SILS may assist their county board(s) in preparing the county's application(s) for SILS grants; however, only county boards are authorized to submit the application for SILS Grants in accordance with Minnesota Statutes, section 252.275, subdivision 2 and 12 MCAR 2.020C1,c.	No change
B.	Purpose There is no indication here that this funding rule has any interest in assisting mentally handicapped or developmentally disabled individuals interested in achieving independence from their parents home, but who would not be placed in an institution? (Six Acres, 12/2/83)	Based upon Minnesota Statute, section 252.275, subdivision 1, it is necessary to direct SILS grant funds only to those clients who are determined to be at risk of placement into an ICF/MR or to those clients who would be unnessarily retained in an ICF/MR, if SILS were not provided. Additional CSSA funds ($236,900) were made available on January 1, 1984 to county boards for providing SILS to those clients who do not meet the above criteria so that they would continue to receive SILS, as needed, but would not be subject to these rules.	No change

MR Division
May, 1984

ANALYSIS OF INPUT ON PROPOSED RULE ON SILS FUNDING 12 MCAR §§ 2.02001 - 2.02011 [Temporary]
RECEIVED FROM AUGUST, 1983 THROUGH APRIL, 1984

Page Number	Issue	Discussion	Department Action
C.	Applicability Another purpose is to provide necessary support for developmentally disabled persons as not all persons will be labeled mentally retarded.(Six Acres, 12/2/83)	Based upon Minnesota Statutes, section 252.275, grant funds for SILS are specifically directed to persons who are mentally retarded. 12 MCAR 2.185 defines those people who are considered to be mentally retarded persons. These rules (12 MCAR 2.02001 to 2.02011 [Temporary]) do not prohibit county boards in their use of other sources of funding to provide SILS to clients who do not meet criteria in 12 MCAR 2.185.	No change
12 MCAR §2.02002	Definition		
O.	Semi-independent living services definition should also include use of leisure time skills. (Six Acres, 12/2/83)	Training in leisure time skills is considered a related social support service and is included in the more specific listing of reimbursable services found in 12 MCAR 2.02005 [Temporary]	No change
U.	Unit of service information showed <u>only</u> include direct contact time with the client (Hennepin County, 1/12/84	After extensive considerations, the task force recommended the unit of service definition be expanded to include collateral contacts and individual program planning activities since these activities are also essential for the effective provision of SILS and are required in the licensing rule (12 MCAR 2.018). Providers of SILS are required to report to the county board the units of services provided in each area pursuant to 12 MCAR 2.02004 C. County boards establish limits in each unit of service area in their contracts with the service providers.	No change

MR Division
May, 1984

ANALYSIS OF INPUT ON PROPOSED RULE ON SILS FUNDING 12 MCAR §§ 2.02001 - 2.02011 [Temporary]
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Q. 12 MCAR §2.02003	Clarify the definition of provider.	This is a necessary clarification due to comments from Hennepin County and ARRM.	On page 3, line 12, after "2.018." add "For the purpose of these rules, a provider may be a county board who provides SILS directly or a contractor of the county board.
	Client Eligibility		
A.3.	Must a client be a current recipient of medical assistance in order to be eligible for state grant funds, if they have a state or more likely, a federal disability determination? (Hennepin County, 1/12/84)		No change
		A client must be eligible to receive medical assistance based upon meeting the categorical requirements for eligibility used in that program. The client does not need to be receiving medical assistance.	No change
A.3 B.	A.3. and B. would virtually exclude a large percentage of the present SILS participants (Six Acres)	Most clients receiving SILS do meet the criteria of 12 MCAR 2.02003 A. In F.Y. 84 954 clients (85 percent) to receive SILS had a current federal or state disability determination and 174 clients (15 percent) did not. Additional funding (CSSA) to continue to serve these 174 clients has been made available on January 1, 1984.	No change
	Add criteria and procedures	Both the criteria and procedures have been included in the proposed rule. However, the content of the application for exception should be clarified.	On page 5, line 5, after "required", add "The application for exception shall include a psychological report indicating the severity

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			of mental retardation, a report on the client's social and adaptive behavior, and an assessment of the client's probability, of placement into an ICF/MR within one year."
E.	People who are involved in a long-term ICF/MR could easily need more than two years of SILS. (Six Acres, 12/2/83)	Based upon task force recommendations, this provision was amended to ensure up to three years of services for clients coming from ICF/MRs. This amendment was incorporated into the proposed rule.	No change
12 MCAR §2.02004	Approved Provider		
A.2	It is recommended that the size limitation apply only to programs actually funded by SILS grants. (Hennepin County, 1/12/84)	The program size limitation proposed in 12 MCAR S 2.02004 [Temporary] does not apply to SILS funded by other sources but only to SILS funded by state grants authorized under Minnesota Statutes, section 252.275	No change
	The rule should address programs licensed between January 1, 1984 and the effective date of the rule. (Hennepin County, 1/12/84)	Agree that this clarification is necessary.	On page 5, line 36 and page 6, line 1, delete "on January 1, 1983" and add "as of the effective date of the rule".

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12 MCAR §2.02004	sition from ICF/MR to SILS. This section will not insure good programs or community integrated programs. (Six Acres, 12/2/83)		
A.2.	Existing providers should be grandfathered and the new restrictions should apply only to new providers (ARRM, 4/16/84) The plan of compliance would require more than two years. Suggest five years might be more reasonable. (ARRM, 4/16/84)	Based upon task force recommendations, the lack of appropriate and adequate housing was the major consideration for a county board to request an exception to A.2. Existing providers not meeting the criteria for exception are given until January 1, 1987 to comply with A.2. This was considered a reasonable amount of time by the task force.	No change
	The availability of appropriate and adequate housing available locally to mentally retarded persons should be a consideration when implementing the size limitation. (Group Homes of Winona, 9/8/83)	An exception to the service site limitations of A.2. was added to the draft rule to assure mentally retarded persons appropriate and adequate housing and was incorporated in the proposed rule.	No change

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12 MCAR §2.02004 A.	Will force good programs to close their programs. Being close to an ICF/MR has allowed SILS programs to serve more difficult clients and assisted clients in the transition from ICF/MR program to SILS.	12 MCAR 2.02004 A.2.[Temporary] allows SILS to be close but not adjacent to or within any existing group residential facility; therefore, more difficult clients could continue to be served in SILS and assisted in the transition from ICF/MR to SILS.	No change
B.	Counties should be encouraged to send requests for proposals and SILS providers to send job posting to state hospitals, but not required to. Should be optional (Hennepin County, 1/12/84)	Minnesota Statute, section 252.275, subdivision 5 requires that reasonable efforts be made to hire qualified employees of state hospital units. The task force felt that it is not unreasonable to have county boards to send their request proposals or service providers send their job postings to the designated state hospital. The provision does not require that a county or a service provider must apply preferential treatment to qualified employees of state hospital units.	No change
C.	County should not be service provider which would move toward greater management and control by the county board. (ARRM, 4/16/84)	Consistent with the administration and funding of community social service programs (Minnesota Statutes 256E), the county board has the responsibility to provide SILS to eligible clients based upon the identified need for services and within the appropriation made available. To carry out these responsibilities, a county board may provide SILS directly or contract with a service vendor. The county board must be an approved vendor or contract with an approved	See ammendments made to 12 MCAR S 2.02007E.

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		vendor before SILS are reimbursable under these rules.	
12 MCAR §2.02005 B.	Support county authorization for services. (Hennepin County, 1/12/84)		No change
D.	Support 20 hours of assistance for clients in ICF/MR. (Hennepin County, 1/12/84)		No change
	Doesn't this conflict with 12 MCAR 2.02004 A.3.? (Six Acres, 12/2/83)	This conflict was eliminated in the proposed rule.	No change
E.	What if a client is working only part-time or seeking employment? Could SILS be provided to assist these clients during the day? Recommend this provision be reworded to be made more flexible. (Hennepin County, 1/12/84)	Agree that clarification is needed	On page 8, line 18, after "reimbursed" add "<u>This provision does not prohibit reimbursement of SILS to clients during the day, who are working on a part-time basis or seeking employment</u>."
12 MCAR §2.02006 B.	B.3. and B.4. requires counties to provide client specific in-	It is reasonable and necessary to request county boards to identify individual clients proposed to be served in SILS for a specific	No change

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	formation in their application. This information may not be available until the end of the grant year. (Hennepin County, 1/12/84)	grant period to assure clients are at risk of placement into an ICF/MR within the grant period and caseload projections are reasonable. In F.Y. 84, all counties identified the individual clients to be served in F.Y. 84 for projection purposes.	
12 MCAR §2.02007			
B.	Support application of outside funds. (Hennepin County, 1/12/84)		No change
C.	Helpful for counties to have range of reimbursement of 80 - 95 percent. (Hennepin County, 1/12/84)		No change
			Page 11, line 17 delete "actual" and "direct." Page 11, line 18, delete "semi-independent living"
E.	Implies that county boards providing SILS only for direct client services while other providers have a different unit of service definition. The same definitions should be used regardless of who	Agree	Page 11, line 19, after "reimbursed" add "as defined in 12 MCAR 2.02002 [Temporary]. SILS provided by the case-manager assigned to the client shall not be reimbursed under

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	the provider is. County SILS staff should be separate from case management staff. (Hennepin County, 1/12/84)		these rules."
12 MCAR §§2.02001-2.02011	General Concerns		
	Recommend that the SILS program change from a grant program to a client reimbursement program, that the SILS be folded into CSSA, that the formal county application process for SILS be eliminated. (S.W. Regional Development Commission, 8/22/83)	Minnesota Statutes, section 252.275 establishes SILS as a state grant program (subdivision 1) and requires county boards to submit an application and budget in order to receive grant funds. The proposed rules reflects these statutory requirements.	No change
	Recommend SILS grant applications be reviewed by a panel and criteria for grants be established. (Developmental Disabilities, 8/27/83)	The proposed rules specificaly include the grant application process, criteria for grant approval, funding priorities, and client and vendor eligibility; therefore, it is clear under what conditions a county board may receive grant funds and is not necessary to have county applications reviewed by a panel which could result in delays in grant approval.	No change

Department of Public Welfare

Proposed Temporary Rules Governing Semi-Independent Living Services for Mentally Retarded Persons

Notice of Intent to Adopt Temporary Rules

The State Department of Public Welfare proposes to adopt the above-entitled temporary rules to implement Laws of Minnesota 1983, chapter 310, section 1, subdivision 6.

Persons interested in these rules have until April 9, 1984 to submit written comments. The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Robert F. Meyer
Mental Health Bureau
Department of Public Welfare
Fourth Floor, Centennial Building
St. Paul, MN 55155
612/296-2147

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

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

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

The purpose of 12 MCAR §§ 2.02001-2.02011 (Temporary) is to establish procedures to implement a statewide program of semi-independent living services to assist county boards in reducing their utilization of intermediate care services in state hospitals and community residential facilities for persons who are mentally retarded.

Semi-Independent Living Services (SILS) means an array of services that includes training, counseling, instruction, supervision and assistance provided in accordance with the client's individual program plan provided for fewer than 24-hours her day. Services may include assistance in budgeting, meal preparation, shopping, personal appearance, counseling and related social support services needed to maintain and improve the clients' functioning.

These temporary rules will not result in any additional state or county spending beyond the amount of funds appropriated under Laws of Minnesota 1983, chapter 310.

Copies of this notice and the proposed temporary rule may be obtained by contacting Robert F. Meyer, 612/296-2147.

March 5, 1984

Leonard W. Levine
Commissioner of Public Welfare

Temporary Rules as Proposed (all new material)

12 MCAR § 2.02001 [Temporary] Authority, purpose, and applicability.

A. Authority. Minnesota Statutes, section 252.275, subdivision 6, authorizes the commissioner to adopt rules to govern grant applications, criteria for approval of applications, allocation of grants, and maintenance of program and financial statements for county or human service boards applying for state grants for semi-independent living services for mentally retarded persons.

B. Purpose. The purpose of 12 MCAR §§ 2.02001-2.02011 [Temporary] is to establish procedures to implement a statewide program of semi-independent living services to assist county boards in reducing their utilization of intermediate care services in state hospitals and community residential facilities for persons who are mentally retarded.

C. Applicability. Rules 12 MCAR §§ 2.02001-2.02011 [Temporary] govern the county boards' grant proposal, submission and reporting, and the department grant approval of semi-independent living services for mentally retarded persons. Only county boards may apply for a state grant for semi-independent living services. Rules 12 MCAR §§ 2.02001-2.02011 [Temporary]

govern only semi-independent living services funded under appropriations made available under Minnesota Statutes, section 252.275. Rules 12 MCAR §§ 2.02001-2.02011 [Temporary] do not govern semi-independent living services funded as a home and community-based service under Minnesota Statutes, section 256B.50, or semi-independent living services funded as a community social service under Minnesota Statutes, sections 256E.01 to 256E.12.

12 MCAR § 2.02002 [Temporary] Definitions.

A. Applicability. As used in 12 MCAR §§ 2.02001-2.02011 [Temporary], the following terms have the meanings given to them.

B. Administrative operating costs. "Administrative operating costs" has the meaning given it in 12 MCAR § 2.05313 [Temporary] C.

C. Case management. "Case management" has the meaning given it in 12 MCAR § 2.185.

D. Client. "Client" means an adult who is mentally retarded, 18 years of age and older, and receiving semi-independent living services as provided in 12 MCAR § 2.018.

E. Commissioner. "Commissioner" means the commissioner of the Department of Public Welfare.

F. County board. "County board" means that body of duly elected officials responsible for the governance of the county under the authority of Minnesota Statutes, sections 375.02 to 375.55. When a human service board has been established under Minnesota Statutes, section 402.02 to 402.10, it shall be considered to be the county board for the purposes of 12 MCAR §§ 2.02001-2.02011 [Temporary].

G. Department. "Department" means the Department of Public Welfare.

H. Financially responsible county board. "Financially responsible county board" means the county of financial responsibility as defined in Minnesota Statutes, section 256E.08.

I. Host county contract. "Host county contract" has the meaning given it in 12 MCAR § 2.160.

J. Individual program plan. "Individual program plan" has the meaning given it in 12 MCAR § 2.185.

K. Individual service plan. "Individual service plan" has the meaning given it in 12 MCAR § 2.185.

L. Interdisciplinary team. "Interdisciplinary team" has the meaning given it in 12 MCAR § 2.185.

M. Intermediate care facility for mentally retarded or ICF/MR. "Intermediate care facility for mentally retarded" or "ICF/MR" means a program licensed to serve mentally retarded residents under Minnesota Statutes, section 252.28, and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which are also certified as an intermediate care facility for mentally retarded under Code of Federal Regulations, title 42, section 442 (as amended through December 1983).

N. Local matching money. "Local matching money" means local actual cash revenues made available by a county board for the provision of semi-independent living services.

O. Local social service agency. "Local social service agency" has the meaning given it in 12 MCAR § 2.185.

P. Mentally retarded person. "Mentally retarded person" has the meaning given it in 12 MCAR § 2.185.

Q. Provider. "Provider" means an individual, organization, or agency providing semi-independent living services and meeting the requirements of 12 MCAR § 2.02004 [Temporary] and 12 MCAR § 2.018.

R. Request for proposal. "Request for proposal" means a written proposal by the county board specifying the number and types of clients to be served, the amount and type of services to be provided, the client outcomes to be expected, the criteria for provider selection, and the service cost or budget limitations, if any.

S. Semi-independent living services. "Semi-independent living services" means services which include training, counseling, instruction, supervision, and assistance provided in accordance with the client's individual program plan provided for fewer than 24 hours per day. Services may include assistance in budgeting, meal preparation, shopping, personal appearance, counseling, and related social support services needed to maintain and improve the clients' functioning.

T. Service site. "Service site" means the building where clients reside while receiving semi-independent living services.

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

U. Unit of service. A "unit of service" means one hour of staff time spent on the activities of developing, implementing, coordinating, and evaluating a client's program plan. A unit of service is limited to:

1. direct contact activities involving direct contact with the client either face-to-face or over the phone directed at the attainment of the individual service plan;

2. collateral activities which means direct verbal or written contact with professionals or others relating to client which is directed toward the attainment of the individual service plan; and

3. individual program planning activities, which means attending the client's interdisciplinary team meetings, assessing the client's functioning levels, developing and reviewing the client's quarterly and annual program plans, and charting and reporting on the client's progress toward individual service objectives.

12 MCAR § 2.02003 [Temporary] Client eligibility.

A. Client eligibility. The county board may receive state reimbursement under 12 MCAR §§ 2.02001-2.02011 [Temporary] for a person who is:

1. determined to be mentally retarded in accordance with the procedures of 12 MCAR § 2.185; and is 18 years of age and older;

2. a resident of an ICF/MR, who would otherwise remain in an ICF/MR if semi-independent living services were not provided, or the resident is determined by the local social service agency to be at risk of institutional placement and in need of semi-independent living services. At risk of institutional placement means that the client would be placed into a long-term intermediate care facility for mentally retarded persons within one year if semi-independent living services were not provided; and

3. eligible for the categorical requirement of disability used in the Medical Assistance Program. The person must have a current federal or state determination of disability by the Social Security Administration or a state disability determination by the Department of Public Welfare's medical review team.

B. Exceptions. Individual client exceptions to having a federal or state disability determination may be made when it is demonstrated that the person meets the criteria in A.1. and A.2. of this rule. Application for individual exceptions must be submitted in writing by the financially responsible county board to the mental retardation division. Individual exceptions will be reviewed and determined by the mental retardation division in consultation with the state medical review team within 30 days of the receipt of the county board's request unless additional information is required.

C. Appeals. If a client receiving semi-independent living services is no longer determined to be disabled and has appealed that determination, the client continues to be eligible for semi-independent living services until the final determination of the appeal.

D. Loss of eligibility. If a client is finally determined to no longer be disabled, the client is considered eligible for semi-independent living services for the remainder of the grant period.

E. Transfers from ICF/MR. Any client taken from an ICF/MR and placed in a semi-independent living service is eligible to receive three consecutive years of semi-independent living services reimbursement regardless of their medical assistance eligibility or disability status.

12 MCAR § 2.02004 [Temporary] Approved provider.

A. Approved provider. A provider is approved to receive state reimbursement from a responsible county board for semi-independent living services under 12 MCAR §§ 2.02001-2.02011 [Temporary] when:

1. the provider has a current license to provide semi-independent living services in accordance with Minnesota Statutes, sections 252.28 and 245.781, and 12 MCAR § 2.018;

2. the provider provides semi-independent living services to no more than eight clients per service site. More than eight clients may be served at a service site if fewer than 25 percent of the occupants of the building are receiving semi-independent living services. Service sites where more than four clients are served shall not be adjacent to or within any existing group residential facility or another semi-independent living services site where more than four clients are served. A provider licensed to provide semi-independent living services on January 1, 1983 not in compliance with this provision, shall submit a plan of compliance to the county board in which it is located by January 1, 1985. The plan of compliance shall not exceed two years and must be approved by the commissioner under the provisions of 12 MCAR § 2.185. The plan must provide for full compliance within two years of its submission; the provider is not approved to receive state reimbursement unless the commissioner approves the plan.

A county board may apply to the commissioner for an exception to 12 MCAR § 2.02004 [Temporary] A.2. based upon the lack of appropriate and adequate housing available to mentally retarded persons. The exception shall demonstrate that the

county proposal is based upon the individual program needs of the clients, assures that services are provided in the least restrictive setting, and avoids the excessive concentration of mentally retarded persons within any service site, town, municipality, or county of the state.

B. Hiring displaced state hospital staff. Each county board shall assure directly or put it in the contract with a provider, that reasonable efforts are made to hire qualified employees of state hospital mental retardation units who have been displaced by reorganization, closure, or consolidation of state hospital units. The county board shall:

1. send its county's request for proposals for the provision of semi-independent living services to the state hospital designated to serve its county's mentally retarded persons at the same time the proposal is sent to other providers; and

2. require that the semi-independent living services providers in the county send all job postings or advertisements to the county's designated state hospital personnel department for mentally retarded.

C. County board and provider contract. When a county board contracts for semi-independent living services, there must be a written host county contract between the county board and the semi-independent living services provider before they are eligible for state reimbursement provided under 12 MCAR §§ 2.02001-2.02011 [Temporary]. The contract must specify:

1. the procedures for monitoring of the provider's compliance with 12 MCAR § 2.02004 [Temporary];

2. the method of payment by the county board to the provider, in which the hourly rate and the units of service by the categories defined in 12 MCAR § 2.02002 [Temporary] and their administrative operating costs associated with providing semi-independent living services must be stated;

3. that reporting and maintenance of records must be consistent with the reporting and recording requirements of 12 MCAR §§ 2.02001-2.02011 [Temporary]; and

4. that services to be provided must be directed at the attainment of the goals and objectives of each client's individual service plan.

12 MCAR § 2.02005 [Temporary] Reimbursable services.

A. Reimbursable services. A county board is eligible for state reimbursement for semi-independent living services when the services are directed at maintaining or improving a client's functioning level. Reimbursable services include, but are not limited to, supervision, assistance, counseling, or training in the following areas of service:

1. meal planning and preparation;
2. shopping;
3. first-aid training;
4. money management and budgeting;
5. administration of medications;
6. telephone and other public utility usage;
7. personal appearance and hygiene;
8. apartment or home maintenance and upkeep;
9. use of community emergency resources;
10. rights and responsibilities of community living;
11. social, recreational, and transportation skills; and
12. appropriate social behaviors.

B. Authorization for services. Semi-independent living services shall be authorized by the financially responsible county board or its designee before the services are reimbursable.

C. Unapproved providers. Semi-independent living services delivered by a provider not meeting the provisions of 12 MCAR § 2.02004 [Temporary], will not be reimbursed.

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

D. Services to a person in an ICF/MR. Semi-independent living services provided to a person while he or she resides in an ICF/MR shall be reimbursed under 12 MCAR § 2.02001-2.02011 [Temporary] only when:

1. the amount of services does not exceed a total of 20 hours while the person resides in ICF/MR; and

2. the services have resulted in the person being placed into a semi-independent living arrangement.

E. No preclusion or substitution for day programs or occupations. Semi-independent living services provided which preclude the client from participation in the appropriate day program or occupation, or provided as a substitute for the appropriate day program or occupation, shall not be reimbursed.

12 MCAR § 2.02006 [Temporary] Application process.

A. Application forms and deadlines. The commissioner shall notify county boards of the deadlines and provide application forms for submission of proposals for grants under Minnesota Statutes, section 252.275.

B. Grant proposals. In order to qualify for a grant under Minnesota Statutes, section 252.275, the county board shall submit to the commissioner two completed copies of the annual proposal. A county board may submit its semi-independent living services proposal as part of its community social service plan. The proposal must at least:

1. describe the proposed semi-independent living services program or changes in the service program from the previous year to be provided under the grant;

2. state the measurable semi-independent living services program goals and objectives or changes in the service program goals and objectives from the previous year to be accomplished with the grant;

3. specify the projected annual service cost, semi-independent living service vendor, living arrangement, day occupation, projected number of service hours, hourly rate, and public assistance eligibility for each client to be served; and

4. include a budget showing total projected income and expenditures from all sources for the proposed semi-independent living services program and the methods used in projecting expenditures.

C. Review of proposals. The commissioner shall evaluate proposals submitted in accordance with 12 MCAR §§ 2.02001-2.02011 [Temporary] for approval. The criteria used for reviews of the proposals must include:

1. the degree to which the proposal reduces or limits the county board's use of long-term intermediate care for mentally retarded persons in state hospitals and community facilities according to Minnesota Statutes, section 252.28;

2. the degree to which the budget for services are based upon reasonable cost projections and methodologies; and

3. the compliance with 12 MCAR §§ 2.02001-2.02011 [Temporary].

D. Approval of applications. The commissioner shall base approval of applications and budgets for semi-independent living services on their compliance with Minnesota Statutes, section 252.275 and 12 MCAR §§ 2.02001-2.02011 [Temporary].

E. Compliance with applicable laws and rules. To be eligible for state reimbursement under 12 MCAR §§ 2.02001-2.02011 [Temporary], the county board and its contracting providers and subcontractors shall comply with:

1. Minnesota Statutes, section 245.825, and applicable rules governing the use of aversive and deprivation procedures;

2. Minnesota Statutes, chapter 13 governing the collection, security, and dissemination of records; and

3. Minnesota Statutes, section 626.557 and applicable rules governing reporting of maltreatment of vulnerable adults. If a county board does not comply with these statutes and rules, it will not be reimbursed under 12 MCAR §§ 2.02001-2.02011 [Temporary].

F. Adjustment of proposals. The commissioner shall adjust county proposals as necessary to assure compliance with Minnesota Statutes, section 252.025 and the provisions of 12 MCAR §§ 2.02001-2.02011 [Temporary].

G. Notice of grant award. The commissioner shall give written notice of the grant award determinations to the county boards.

12 MCAR § 2.02007 [Temporary] Use of state funds.

A. Reimbursement amounts. County boards shall be paid by the state agency based on their actual expenditures for semi-independent living services to eligible clients and the rate of state reimbursement determined by the commissioner in C. for the grant period. The amount of state reimbursement to a county board must not exceed the amount of the state grant award made to the county board for the grant period.

B. Other income. If a county board or a provider receives any income other than county money as a reimbursement for service costs also funded through state or local matching money under Minnesota Statutes, section 252.275, then:

1. this income shall be applied first to the local share to reduce the local share; and

2. if the income exceeds the local share of the approved service costs, the commissioner must reduce the state grant by the amount that the income exceeds the local share.

C. Rate of state reimbursement. The actual percentage of the total cost of semi-independent living services paid by the commissioner shall be the percentage of total expenditures for services budgeted by county boards for the grant period prorated against the state appropriations for the period. The commissioner shall work with county boards to adjust proposals as necessary to comply with Minnesota Statutes, section 252.275, subdivision 4. State reimbursement shall not be more than 95 percent or be less than 80 percent of the cost of semi-independent living services for eligible clients. Priority for funding shall be given to eligible clients who have received semi-independent living services in the previous grant period and continue to need services during the proposed grant period.

D. Board and lodging expenditures. Expenditures for board and lodging are not reimbursable as semi-independent living services. Board and lodging expenses are costs of:

1. normal and special diet food preparation and service;

2. linen, bedding, laundering, and laundry supplies;

3. housekeeping, including cleaning and lavatory supplies;

4. maintenance and operation of the building and grounds, including fuel, electricity, water, supplies and parts and tools to repair and maintain equipment and facilities; and

5. allocation of salaries and other costs related to these areas.

E. Case management and county administrative costs. Case management and county administrative costs are not reimbursable as semi-independent living services. If the county board is the provider of the services, the actual units of direct semi-independent living services provided by agency staff shall be reimbursed.

12 MCAR § 2.02008 [Temporary] Fiscal and client reporting.

A. Records. The county board and its contracting providers and subcontractors shall maintain records to document compliance with 12 MCAR §§ 2.02001-2.02011 [Temporary] and with the goals and objectives in the approved application.

B. Reports. The county board shall use forms provided by the commissioner to report the use of funds for the previous grant period under Minnesota Statutes, section 252.275. The reports must consist of quarterly fiscal reports to ensure tracking of state expenditures for semi-independent living services and an annual program report describing the types of clients served and the amount and types of services provided. County boards shall submit quarterly fiscal reports within 20 days of the end of the quarter and annual program reports within 20 days of the end of the grant year. A county board may integrate these reports into its reports for community social services.

C. Financial records. The county board and its contracting providers and subcontractors shall maintain financial records, using generally accepted accounting principles, in a manner that enables expenditures to be easily compared with the approved budget, all sources of income readily identified, and documentation available for all expenditures.

D. Audits. The county board and its contracting providers and subcontractors shall make available for audit inspection all records required by 12 MCAR §§ 2.02001-2.02011 [Temporary] upon request by the commissioner.

E. Retention of records. Unless an audit in process requires a longer retention period, the county board and its contracting providers and subcontractors shall retain a copy of the following records required by 12 MCAR § 2.02001-2.02011 [Temporary] for at least four years:

1. the program and fiscal reports required in B. and C.;

2. records of specific payments made and income received; and

3. all other records.

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

12 MCAR § 2.02009 [Temporary] Budget revision and adjustments, new awards.

A. Increase of a grant. The commissioner may increase a grant award to a county for semi-independent living services when:

1. it has been determined that unused grant money is available under 12 MCAR § 2.02010 [Temporary];

2. the grant increase is within the limits established under Minnesota Statutes, section 252.275, subdivision 4; and

3. the county expenditures for semi-independent living services, which are eligible for reimbursement, exceeded their budget projections.

B. State payments, reductions. Payments shall be in the form of an initial advance, with subsequent quarterly payments contingent upon receipt of a completed quarterly financial report from the county board on forms provided by the commissioner. If actual expenditures by the county board and its contracting providers and subcontractors are less than provided in its approved budget, the commissioner shall reduce the quarterly payments so that the grant remains within the limits in 12 MCAR § 2.02007 [Temporary].

C. New awards. The commissioner may make new grant awards for other proposals approved for funding within the provisions of Minnesota Statutes, section 252.275 from unused funds that are available under 12 MCAR § 2.02009 [Temporary] B. and 12 MCAR § 2.02010 [Temporary].

12 MCAR § 2.02010 [Temporary] Reduction, termination, and return of grants.

A. Unnecessary funds. If the commissioner determines, in consultation with a county board, that the total grant award to that county will not be earned during the grant period, the commissioner may reduce the grant award by the amount determined not to be needed. The commissioner shall notify the affected county board within 30 days of the grant award reduction.

B. Improper use of funds. If the commissioner determines that funds are not being used according to the approved application and budget, all or part of the grant must be terminated upon 30-day notice to the county board with a copy to the provider. The commissioner must require repayment of any funds not used according to the approved application and budget.

12 MCAR § 2.02011 [Temporary] Appeal process.

If the commissioner receives a written appeal from the county board within the 30-day-notice period, reconsideration by the commissioner in which the county board may state its reasons and present evidence, shall be provided before the grant is reduced, terminated, or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice of certified mail.

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.

Energy and Economic Development Authority

Adopted Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan Program

The temporary rules proposed and published at *State Register*, Volume 8, Number 26, pages 1506-1509, December 26, 1983 (8 S.R. 1506) are adopted with the following modifications:

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED TEMPORARY RULES GOVERNING GRANTS TO COUNTY BOARDS FOR SEMI-INDEPENDENT LIVING SERVICES (12 MCAR SS2.02001 - 2.02011 Temporary)

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Deborah Huskins, 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.

Deborah K. Huskins
Special Assistant Attorney General

6/4/84
Date