

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1090

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10-8-84
DATE FOR REVIEW
DATE DUE 10-22-84

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

Approved 10-22-84 mjc Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 10/22/84 Revisor approved 10.10.84 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 10.8.84 Date

Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

Notice of rulemaking
Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
8.29.84 At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
9.3.84 At least ~~30/20~~ 25 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

✓ 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 Levine, Commissioner
Department of Human Services

DATE: October 22, 1984

ATTN: Vicki Sleeper

FROM : Special Assistant Attorney General
Martha J. Casserly MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Emergency Rules Governing Interim Assistance Reimbursement Under General Assistance, Minnesota Rules, Part 9555.3417 (Emergency).

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.

MJC:slz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Human Services

Adopted Emergency Rules Governing General Assistance

Emergency Rule as Adopted

9555.3417 [Emergency] GENERAL ASSISTANCE.

Subpart 1. **Definitions.** The terms used in this part have the meanings given them.

A. The definitions in part 9555.3400 ~~[Emergency]~~ apply to this part.

B. "Initial SSI payment" means the first payment of benefits made for an SSI recipient which includes any retroactive amounts due to the SSI recipient for the period in which eligibility was being determined.

C. "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the local agency for the amount of general assistance provided to him or her by the local agency during the period in which eligibility for another maintenance benefit program was being determined. The agreement shall require reimbursement to the local agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

~~D. "Interim funds" means the total amount of general assistance provided during the period in which the general assistance recipient was also eligible for SSI.~~ FF 1, 10

~~E.~~ "Other maintenance benefits" means maintenance benefits provided under law or rule pertaining to workers' compensation, unemployment compensation, railroad retirement, veteran's disability benefits, supplemental security income, social security disability insurance, or other maintenance benefits identified by the local agency for which the applicant or recipient is potentially eligible.

~~F.~~ E. "Potentially eligible" means that the local agency has determined that the applicant or recipient appears to

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meet the eligibility requirements of another maintenance benefit program.

~~G.~~ F. A "qualified provider" means the local agency, or:

(1) a nonprofit legal assistance organization;

(2) an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy~~.~~;

(3) a private attorney at law; and

(4) another organization or person~~,~~ ~~including private attorneys at law,~~ determined by the local agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

FF2

~~H.~~ G. "SSI" means the supplemental security income program administered by the Social Security Administration.

Subp. 2. **Applicability.** This part establishes the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance concerning application for maintenance benefits from other sources, execution of an interim assistance authorization agreement, provision of special services to assist the applicant or recipient in applying for other maintenance benefits, and reimbursement of interim assistance and reimbursement for provision of special services. This part shall be read together and with parts 9555.3400 to ~~9555.3410 [Emergency]~~ 9555.3409 and 9500.0500 to 9500.0610. To the extent that this part conflicts with parts 9555.3400 to ~~9555.3410 [Emergency]~~ 9555.3409 or 9500.0500 to 9500.0610, this part shall prevail.

Subp. 3. **Screening requirement.** The local agency shall screen general assistance applicants or recipients in the following manner:

A. The department shall provide each local agency with initial training and information concerning other maintenance benefit programs. Following the initial training, the local agency shall determine the potential eligibility of

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each general assistance applicant or recipient for maintenance benefits from other sources. If the local agency determines that the ~~person~~ applicant or recipient is potentially eligible for another maintenance benefit, the local agency shall inform the person of his or her rights and responsibilities in accordance with subpart 4. The determination of a general assistance applicant's potential eligibility for other maintenance benefits shall be made when application for general assistance is made. The determination of a general assistance recipient's potential eligibility for other maintenance benefits shall be made no later than the semi-annual redetermination of eligibility for general assistance, or when the local agency determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits, whichever is earlier.

B. The results of the determination made by the local agency as in item A must be documented on forms prescribed by the commissioner and be retained in the local agency case record for each general assistance applicant or recipient.

C. ~~A~~ An applicant or recipient who has been determined by the local agency to be potentially eligible for another maintenance benefit, and who has applied and has been found ineligible for that other maintenance benefit program, shall not be required to apply again for that other maintenance benefit program unless one of the following conditions is met:

(1) the local agency determines that the applicant's or recipient's health or other circumstance has changed and the change may result in eligibility for that other maintenance benefit program; or

(2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

Subp. 4. **Informing requirement.** Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall provide the

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applicant or recipient with written and oral information concerning all of the following:

A. The requirement that the applicant or recipient apply for the other maintenance benefit program as in subpart 6, item A.

B. The requirement, if applicable, ~~to~~ that the applicant or recipient execute an interim assistance authorization agreement provided for in subpart 6, item H.

C. The requirement ~~to~~ that the applicant or recipient comply with those procedures necessary for the determination of eligibility or ineligibility for the other maintenance benefit program as in subpart 6, item F.

D. The requirement ~~to~~ that the applicant or recipient authorize the local agency or a qualified provider to exchange relevant information concerning the applicant or recipient with another maintenance benefit program office as in subpart 6, item C. FF3

E. The type and estimated amount of benefits available from the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

F. The known eligibility requirements of the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

G. ~~Where to make~~ The address of the location at which application can be made for the other maintenance benefit program for which the ~~general assistance~~ applicant or recipient has been determined to be potentially eligible. FF16

H. How to apply for the other maintenance benefit program for which the general assistance applicant or recipient has been determined to be potentially eligible.

I. The availability of special services described in subpart 9 to assist the applicant or recipient in applying for SSI benefits, and the applicant's or recipient's right to choose either the local agency or another qualified provider of the special services.

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J. Notice of the actions to be taken if the applicant or recipient fails to comply with subpart 6, items A, C, F, and H.

K. Notice of the applicant's or recipient's right to appeal the determination of ineligibility for general assistance due to noncompliance with subpart 6, items A, C, F, and H.

Subp. 5. **Referral requirement.** The local agency shall refer applicants or recipients to other maintenance benefit programs as follows:

A. Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall refer the applicant or recipient to that other maintenance benefit program. The referral must be made on forms prescribed by the commissioner.

B. ~~If~~ At the time that the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall offer to the applicant or recipient the special services needed to assist him or her in applying for and obtaining SSI as in subpart 9, and shall furnish him or her with a list of qualified providers.

C. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall refer him or her to the Social Security Administration local office to apply for SSI benefits. If the applicant or recipient at that time or at a later date elects to receive the special services in subpart 9 from a qualified provider other than the local agency, the local agency shall refer the applicant or recipient to the chosen provider and shall enter into a contract with that qualified provider for special assistance to ~~the applicant~~ applicants or ~~recipient~~ recipients in applying for and obtaining SSI. #F4

D. Upon referral as in item C, the local agency shall promptly notify the Social Security Administration local office of the date of referral so that ~~the local agency may determine~~ the earliest potential date of eligibility for SSI ~~for recovery of interim funds~~ can be established. #F5

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Subp. 6. **Actions required of applicants or recipients.** Applicants or recipients must comply with the following:

A. An applicant or recipient who has been referred as in subpart 5, item A or C, must apply within 30 days of the date of referral for the other maintenance benefit programs for which he or she has been determined to be potentially eligible.

B. If verification is not available from the recipient, the local agency must contact the other maintenance benefit program local office to determine if the recipient has applied for benefits within the time period specified in item A. If the other maintenance benefit local office verifies that the recipient applied for those benefits within the time period specified in item A, the requirement to apply has been met.

C. An applicant or recipient who is referred to another maintenance benefit program as in subpart 5, item A or C, shall authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with ~~that~~ the other maintenance benefit program office. The information exchanged must be relevant to qualifying for benefits from the other maintenance benefit program. FF3

D. For purposes of exchanging private or confidential information about a person for whom a qualified provider has contracted to provide special services, the qualified provider shall not be considered part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1. FF3 modify opacts

E. If the other maintenance benefit program local office verifies that the recipient has not applied for those benefits within the time period specified in item A, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

F. A recipient who has been referred as in subpart 5, item A or C must comply with those procedures necessary for the determination of eligibility or ineligibility for another maintenance benefit program.

G. If the local agency determines that the recipient has not complied with those procedures necessary for the

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determination of eligibility for maintenance benefits from another source, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

H. An applicant or recipient who has been referred as in subpart 5, item A or C, must execute an interim assistance authorization agreement, if applicable, within 30 days of the date of referral.

I. If the recipient fails to complete an interim assistance authorization agreement within the time period specified in item H, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

J. If, for reasons beyond his or her control, a recipient is unable to comply with the requirements of item A, C, F, or H, the recipient must inform the local agency within 60 days of the referral required in subpart 5 of his or her inability to comply ~~within 30 days of the date of referral~~. The local agency must then attempt to resolve the circumstances which prevent the recipient from complying with the requirements. If the local agency and the recipient are unable to resolve the circumstances, the ~~client~~ recipient shall be found to have good cause for failure to comply with the requirements.

FF6

Subp. 7. **Ineligibility.** The following conditions govern termination of general assistance eligibility for ~~persons~~ a recipient who, without good cause as in subpart 6, item J, ~~do~~ does not comply with the requirements of subpart 6.

A. ~~A recipient who, without good cause as in subpart 6, item J, fails to comply with the requirements of subpart 6, shall be found ineligible for general assistance. The local agency shall notify the recipient of its intent to terminate eligibility for general assistance~~ Prior to terminating the eligibility of a recipient who fails to comply with the requirements of subpart 6, the local agency must provide the recipient with a second notification of the requirements with

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which he or she must comply and must offer assistance to overcome the circumstances which prevent compliance. The notice must be given or mailed to the recipient at least 30 days before reducing, suspending, or terminating the grant due to the recipient's failure to comply with subpart 6. The notice must:

~~(1) be in writing on a form prescribed by the commissioner;~~

~~(2) be mailed or given to the recipient not later than 30 days before the effective date of the action;~~

~~(3) clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued should the recipient file an appeal; and~~

~~(4) state the requirements which the recipient must comply with in order to end the period of ineligibility; and~~

~~(5) notify the recipient of the continued availability of special assistance as in subpart 9~~ state the requirements which the local agency believes the recipient has not complied with and which must be complied with in order to avoid or end a period of ineligibility;

(2) clearly state what action the local agency intends to take if the recipient fails to comply with the stated requirements, the date of the action, the right to appeal the action, and the conditions under which assistance can be continued should the recipient file an appeal;

(3) offer assistance to resolve the circumstances or concerns which prevent the recipient from complying with the requirements;

(4) inform the recipient of the continued availability of special assistance as in subpart 9; and

(5) be in writing on a form prescribed by the commissioner.

B. ~~Upon notification as in item A, the local agency shall offer the recipient assistance to meet the requirements~~ A recipient who fails to comply with the requirements of subpart 6

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specified in the notice in item A shall be ineligible for general assistance.

C. The period of ineligibility shall begin on the first day of the first calendar month following the 30-day period specified in item A and shall continue until the person fulfills the requirements of subpart 6. If the ineligible person subsequently applies for general assistance, the application shall be denied unless the requirements of subpart 6 are met.

D. If the person is determined to be ineligible under item ~~A~~ B, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

E. If the recipient complies with subpart 6 within the 30 days specified in the notice in item A, ~~no~~ a period of ineligibility shall not be imposed.

Subp. 8. **Appeals.** A recipient who is determined ineligible for general assistance under subpart 7 may appeal the determination. The appeal must be a written request for a hearing submitted to the department or to the local agency under Minnesota Statutes, section 256.045. If the recipient appeals on or before the ~~effective date~~ first day of the ~~notice~~ period of ineligibility ~~for general assistance~~ under subpart 7, item ~~A~~ C, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance. If the appeal is denied, the amount of general assistance paid to the recipient during the appeal process shall be recoverable from the recipient ~~or his or her estate~~ by the county or the state as a debt due the county or state or both in proportion to the contribution of each.

FF8

Subp. 9. **Special services.** Special services which assist a general assistance applicant or recipient to obtain SSI benefits for which reimbursement may be claimed under subpart 10 or 11 are:

A. additional explanation or counseling regarding

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application for and the benefits available through the SSI program;

B. assistance in completion of the application for SSI and arranging appointments related to application for SSI;

C. assistance to the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues which may arise during the SSI eligibility determination process;

D. provision of ~~currently-available~~ medical, social, or vocational evidence or expert testimony currently available to the local agency which may substantiate the presence and severity of blindness or disability;

FF 9

E. assistance in obtaining and using ~~additional~~ medical, social, or vocational evidence or expert testimony and assisting the applicant or recipient in cooperating with the Social Security Administration and its agents, procedures, and requirements;

F. assistance with necessary transportation;

G. preparation for and representation at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security Administration's determination of ineligibility for SSI;

H. ~~if-a-local-agency,-developing~~ preparation by the local agency of a contractual agreement with the qualified provider chosen by the applicant or recipient; and

I. other services to assist the ~~person~~ applicant or recipient in establishing eligibility for SSI benefits.

Subp. 10. **Reimbursement for interim assistance and special services.** The procedure for reimbursement for interim assistance and special services is as follows:

A. Upon determining SSI eligibility for a person who has completed an interim assistance authorization agreement, the Social Security Administration forwards the initial SSI payment to the local agency. Within ten days of receipt of the initial SSI payment, the local agency shall disburse to the recipient the amount of the difference between the initial SSI payment and

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the total amount of general assistance provided ~~during~~ for the period for which the initial SSI payment is made. From the ~~interim-available~~ funds remaining after the disbursement to the recipient, the local agency:

(1) shall retain an amount equal to 25 percent of the general assistance paid to the assistance unit for the period for which the initial SSI payment has been made, based on state assistance standards, plus any excess paid to the assistance unit above the state assistance standard;

(2) subject to the provisions of subpart 11, item D, may retain, for provision of special services which ~~result-in-the-recipient-being-determined-eligible-for-SSI,~~ include the special services of subpart 9, items A to D an amount equal to an additional 25 percent of the general assistance paid to the assistance unit for the period for which the initial SSI payment has been made based on state assistance standards.~~--Such-special-services-must-include-the-provisions-of-subpart-9,-items-A-to-D;~~ and

(3) subject to the provisions of subpart 11, item D, may retain, in addition to the amounts claimed in subitems (1) and (2), reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 9 ~~which-result-in-the-recipient-being-determined-eligible-for-SSI~~.

B. The amount retained by the local agency as reimbursement for the provision of special services to an applicant or recipient shall not exceed the amount ~~of-interim-funds-available~~ remaining after the disbursement is made to the recipient pursuant to item A.

C. The balance of the ~~interim-funds~~ initial SSI payment which ~~are~~ is not retained by the local agency or paid to a another qualified provider as reimbursement ~~for-the-provision-of-special-services-as-in-item-A,-subitems-(2)-and-(3),~~ pursuant to subpart 11 shall be forwarded promptly to the Department of Human Services.

D. The local agency must document its own costs and

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costs incurred by qualified providers in providing the special services. If the local agency provides the special services, reimbursement of administrative costs shall be claimed only for the direct costs of the special service provision. The amount retained shall not exceed the reasonable actual cost of providing the special services.

Subp. 11. **Reimbursement to qualified providers under contract to provide special services.** Qualified providers of special services are reimbursed in the following manner:

A. The local agency shall by contract reimburse a qualified provider for the reasonable actual costs, fees, and disbursements including medical reports and expert testimony related to appeals and litigation and provision of the special services in subpart 9 to ~~a~~ an applicant or recipient ~~as provided in subpart~~ 9 referred by the local agency as in subpart 5, item C if the local agency has received the initial SSI payment for ~~that~~ the applicant or recipient.

B. In order to receive reimbursement for the costs, fees, and disbursements related to appeals and litigation and the provision of special services ~~which assist a general assistance applicant or recipient to apply for and obtain SSI benefits~~ as provided in subpart 9, the qualified provider ~~shall~~ must enter into a contract with the local agency and must provide one or more of the special services specified in subpart 9.

The contract shall:

(1) be on a form prescribed by the commissioner except that the local agency may add to or change the form in order to meet standard contracting procedures established by the county board; and

(2) include a provision that the qualified provider shall be reimbursed for the provision of special services under subpart 9 at the rate determined by the qualified provider, ~~but not to exceed $75 per~~ hour of service; and

(3) except as provided in item E, specify that a qualified provider shall not be reimbursed for any part of his

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or her costs, fees, or disbursements unless the local agency has referred the recipient and has received the initial payment from SSI for the recipient served.; and

~~A qualified provider under contract with the local agency shall not receive reimbursement for services in excess of $75 per hour.~~

(4) specify that a qualified provider ~~shall~~ must not require prepayment of any costs, fees, or disbursements from the applicant or recipient.; and ~~shall~~

(5) specify that the qualified provider must agree that the reimbursement received under contract with the local agency constitutes full and complete payment for all services rendered.; and

(6) specify that when the qualified provider requests reimbursement from the local agency for the services provided ~~under contract~~, the qualified provider must document the total number of hours of services provided to the recipient; and

(7) specify the conditions of subpart 12 concerning termination of special services and contracts.

C. When one or more qualified providers have provided special services to a an applicant or recipient, the total reimbursement made to the qualified providers shall not exceed the amount of ~~interim~~ funds retained by the local agency as in subpart 10, item A, subitems (2) and (3) unless the excess is expressly authorized ~~under contract~~ and provided only with local agency funds.

D. If more than one qualified provider provides the special services in subpart 9 to an applicant or recipient, the reimbursement to each qualified provider for his costs, fees, and disbursements shall be the amount derived by multiplying the total amount of ~~interim~~ funds ~~retained by~~ available to the local agency as in subpart 10, item A, subitems (2) and (3) by the qualified provider's reimbursement percentage. The qualified provider's reimbursement percentage is determined by dividing each qualified provider's total number of hours of special

FF12

FF13

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services by the total number of hours of special services provided by the local agency and all other qualified providers ~~under contract~~ who have under contract served the applicant or recipient.

E. The services in subpart 9, when provided during the six-month period prior to ~~an application for general assistance~~ referral of the applicant or recipient to a qualified provider, shall be reimbursed ~~if the local agency determines that the services contributed substantially to the applicant's or recipient's obtaining SSI benefits~~ unless the contracting procedures of the particular county prohibit such payment. The reimbursement shall be made only if ~~interim~~ funds remain after reimbursement for services rendered subsequent to the application for general assistance pursuant to item D.

FF14

F. ~~If the applicant or recipient and the local agency agree to terminate a contract with a qualified provider, the contract for special services for that applicant or recipient shall be terminated.~~

G. The local agency and a another qualified provider may agree through contract to jointly provide the special services of subpart 9.

Subp. 12. **Termination of special services and contracts.** Special services and contracts shall be terminated in the following manner:

FF15

A. If an applicant or recipient requests in writing that the local agency terminate the special services agreement with a qualified provider, the special services agreement for that applicant or recipient shall be terminated, and the local agency shall mail written notice of the termination to the qualified provider. The notice shall include a copy of the applicant's or recipient's written request for termination of the special services agreement. Termination of the agreement shall be effective three days after the date the notice is mailed. Services rendered by the qualified provider after the effective date of termination shall not be eligible for reimbursement under subpart 11, item A.

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B. If a qualified provider elects to discontinue providing the special services in subpart 9 to a recipient, the following information must be provided in writing to the recipient and, if the qualified provider is not the local agency, to the local agency:

(1) the precise status of the recipient's application for supplemental security income benefits;

(2) any deadlines which must be met regarding the recipient's application for supplemental security income benefits;

(3) the right of the recipient to choose another qualified provider, and that the local agency will enter into a contract for the provision of the special services in subpart 9 with the qualified provider if other than the local agency;

(4) a list of qualified providers may be obtained from the local agency.

C. When the local agency terminates a contract with a qualified provider for good cause, the local agency shall mail written notice to the qualified provider and to the recipients being served by the qualified provider. The notice must specify the reason for termination of the contract. Termination of the contract shall be effective three days after the notice is mailed to the qualified provider. The local agency shall also furnish the recipient with a list of other providers qualified to provide the special services in subpart 9.

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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 22 1984
Joan Anderson Growe
Secretary of State
3:15PM

APPROVED AS TO FORM AND LEGALITY
October 22 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

as sent to J. Kapsner 8-21-84

Emergency Rule as Proposed (all new material)

9555.3417 [Emergency] GENERAL ASSISTANCE.

Subpart 1. **Definitions.** The terms used in this part have the meanings given them.

A. The definitions in part 9555.3400 [Emergency] apply to this part.

B. "Initial SSI payment" means the first payment of benefits made for an SSI recipient which includes any retroactive amounts due to the SSI recipient for the period in which eligibility was being determined.

C. "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the local agency for the amount of general assistance provided to him or her by the local agency during the period in which eligibility for another maintenance benefit program was being determined. The agreement shall require reimbursement to the local agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

D. "Interim funds" means the total amount of general assistance provided during the period in which the general assistance recipient was also eligible for SSI.

E. "Other maintenance benefits" means maintenance benefits provided under law or rule pertaining to workers' compensation, unemployment compensation, railroad retirement, veteran's disability benefits, supplemental security income, social security disability insurance, or other benefits identified by the local agency for which the applicant or recipient is potentially eligible.

F. "Potentially eligible" means that the local agency has determined that the applicant or recipient appears to meet the eligibility requirements of another maintenance benefit program.

G. A "qualified provider" means the local agency, or:

(1) a nonprofit legal assistance organization;

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(2) an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy.

(3) another organization or person, including private attorneys at law, determined by the local agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

H. "SSI" means the supplemental security income program administered by the Social Security Administration.

Subp. 2. **Applicability.** This part establishes the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance concerning application for maintenance benefits from other sources, execution of an interim assistance authorization agreement, provision of special services to assist the applicant or recipient in applying for other maintenance benefits, and reimbursement of interim assistance and reimbursement for provision of special services. This part shall be read together and with parts 9555.3400 to 9555.3410 [Emergency] and 9500.0500 to 9500.0610. To the extent that this part conflicts with parts 9555.3400 to 9555.3410 [Emergency] or 9500.0500 to 9500.0610, this part shall prevail.

Subp. 3. **Screening requirement.** The local agency shall screen general assistance applicants or recipients in the following manner:

A. The department shall provide each local agency with initial training and information concerning other maintenance benefit programs. Following the initial training, the local agency shall determine the potential eligibility of each general assistance applicant or recipient for maintenance benefits from other sources. If the local agency determines that the person is potentially eligible for another maintenance benefit, the local agency shall inform the person of his or her rights and responsibilities in accordance with subpart 4. The determination of a general assistance applicant's potential

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eligibility for other maintenance benefits shall be made when application for general assistance is made. The determination of a general assistance recipient's potential eligibility for other maintenance benefits shall be made no later than the semi-annual redetermination of eligibility for general assistance, or when the local agency determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits, whichever is earlier.

B. The results of the determination made by the local agency as in item A must be documented on forms prescribed by the commissioner and be retained in the local agency case record for each general assistance applicant or recipient.

C. A recipient who has been determined by the local agency to be potentially eligible for another maintenance benefit, and who has applied and has been found ineligible for that other maintenance benefit program, shall not be required to apply again for that other maintenance benefit program unless one of the following conditions is met:

(1) the local agency determines that the applicant's or recipient's health or other circumstance has changed and the change may result in eligibility for that other maintenance benefit program; or

(2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

Subp. 4. **Informing requirement.** Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall provide the applicant or recipient with written and oral information concerning all of the following:

A. The requirement that the applicant or recipient apply for the other maintenance benefit program in subpart 6, item A.

B. The requirement, if applicable, to execute an

interim assistance authorization agreement provided for in subpart 6, item H.

C. The requirement to comply with those procedures necessary for the determination of eligibility or ineligibility for the other maintenance benefit program in subpart 6, item F.

D. The requirement to authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with another maintenance benefit program office as in subpart 6, item C.

E. The type and estimated amount of benefits available from the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

F. The known eligibility requirements of the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

G. Where to make application for the other maintenance benefit program for which the general assistance applicant or recipient has been determined to be potentially eligible.

H. How to apply for the other maintenance benefit program for which the general assistance applicant or recipient has been determined to be potentially eligible.

I. The availability of special services described in subpart 9 to assist the applicant or recipient in applying for SSI benefits, and the applicant's or recipient's right to choose either the local agency or another qualified provider of the special services.

J. Notice of the actions to be taken if the applicant or recipient fails to comply with subpart 6, items A, C, F, and H.

K. Notice of the applicant's or recipient's right to appeal the determination of ineligibility for general assistance due to noncompliance with subpart 6, items A, C, F, and H.

Subp. 5. **Referral requirement.** The local agency shall refer applicants or recipients to other maintenance benefit

programs as follows:

A. Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall refer the applicant or recipient to that other maintenance benefit program. The referral must be made on forms prescribed by the commissioner.

B. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall offer to the applicant or recipient the special services needed to assist him or her in applying for and obtaining SSI as in subpart 9, and shall furnish him or her with a list of qualified providers.

C. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall refer him or her to the Social Security Administration local office to apply for SSI benefits. If the applicant or recipient elects to receive the special services in subpart 9 from a qualified provider other than the local agency, the local agency shall enter into a contract with that qualified provider for special assistance to the applicant or recipient in applying for and obtaining SSI.

D. Upon referral as in item C, the local agency shall promptly notify the Social Security Administration local office of the date of referral so that the local agency may determine the earliest potential date of eligibility for SSI for recovery of interim funds.

Subp. 6. **Actions required of applicants or recipients.** Applicants or recipients must comply with the following:

A. An applicant or recipient who has been referred as in subpart 5, item A or C, must apply within 30 days of the date of referral for the other maintenance benefit programs for which he or she has been determined to be potentially eligible.

B. If verification is not available from the recipient, the local agency must contact the other maintenance benefit program local office to determine if the recipient has applied for benefits within the time period specified in item

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A. If the other maintenance benefit local office verifies that the recipient applied for those benefits within the time period specified in item A, the requirement to apply has been met.

C. An applicant or recipient who is referred to another maintenance benefit program as in subpart 5, item A or C, shall authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with that other maintenance benefit program office.

D. For purposes of exchanging private or confidential information about a person for whom a qualified provider has contracted to provide special services, the qualified provider shall be considered part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1.

E. If the other maintenance benefit program local office verifies that the recipient has not applied for those benefits within the time period specified in item A, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

F. A recipient who has been referred as in subpart 5, item A or C must comply with those procedures necessary for the determination of eligibility or ineligibility for another maintenance benefit program.

G. If the local agency determines that the recipient has not complied with those procedures necessary for the determination of eligibility for maintenance benefits from another source, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

H. An applicant or recipient who has been referred as in subpart 5, item A or C, must execute an interim assistance authorization agreement, if applicable, within 30 days of the date of referral.

I. If the recipient fails to complete an interim assistance authorization agreement within the time period specified in item H, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as

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in subpart 7.

J. If, for reasons beyond his or her control, a recipient is unable to comply with the requirements of item A, C, F, or H, the recipient must inform the local agency of his or her inability to comply within 30 days of the date of referral. The local agency must attempt to resolve the circumstances which prevent the recipient from complying with the requirements. If the local agency and the recipient are unable to resolve the circumstances, the client shall be found to have good cause for failure to comply with the requirements.

Subp. 7. **Ineligibility.** The following conditions govern termination of general assistance eligibility for persons who, without good cause as in subpart 6, item J, do not comply with the requirements of subpart 6.

A. A recipient who, without good cause as in subpart 6, item J, fails to comply with the requirements of subpart 6, shall be found ineligible for general assistance. The local agency shall notify the recipient of its intent to terminate eligibility for general assistance at least 30 days before reducing, suspending, or terminating the grant due to the recipient's failure to comply with subpart 6. The notice must:

(1) be in writing on a form prescribed by the commissioner;

(2) be mailed or given to the recipient not later than 30 days before the effective date of the action;

(3) clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued should the recipient file an appeal; and

(4) state the requirements which the recipient must comply with in order to end the period of ineligibility; and

(5) notify the recipient of the continued availability of special assistance as in subpart 9.

B. Upon notification as in item A, the local agency shall offer the recipient assistance to meet the requirements.

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C. The period of ineligibility shall begin on the first day of the first calendar month following the 30-day period specified in item A and shall continue until the person fulfills the requirements of subpart 6. If the ineligible person subsequently applies for general assistance, the application shall be denied unless the requirements of subpart 6 are met.

D. If the person is determined to be ineligible under item A, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

E. If the recipient complies with subpart 6 within the 30 days specified in item A, no period of ineligibility shall be imposed.

Subp. 8. **Appeals.** A recipient who is determined ineligible for general assistance under subpart 7 may appeal the determination. The appeal must be a written request for a hearing submitted to the department or to the local agency under Minnesota Statutes, section 256.045. If the recipient appeals on or before the effective date of the notice of ineligibility for general assistance under subpart 7, item A, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance. If the appeal is denied, the amount of general assistance paid to the recipient during the appeal process shall be recoverable from the recipient or his or her estate by the county or the state as a debt due the county or state or both in proportion to the contribution of each.

Subp. 9. **Special services.** Special services which assist a general assistance applicant or recipient to obtain SSI benefits for which reimbursement may be claimed under subpart 10 or 11 are:

A. additional explanation or counseling regarding application for and the benefits available through the SSI program;

B. assistance in completion of the application for

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STATUTES

SSI and arranging appointments related to application for SSI;

C. assistance to the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues which may arise during the SSI eligibility determination process;

D. provision of currently available medical, social, or vocational evidence which may substantiate the presence and severity of blindness or disability;

E. assistance in obtaining and using additional medical, social, or vocational evidence or expert testimony and assisting the applicant or recipient in cooperating with the Social Security Administration and its agents, procedures, and requirements;

F. assistance with necessary transportation;

G. preparation for and representation at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security Administration's determination of ineligibility for SSI;

H. if a local agency, developing a contractual agreement with the qualified provider chosen by the applicant or recipient; and

I. other services to assist the person in establishing eligibility for SSI benefits.

Subp. 10. **Reimbursement for interim assistance and special services.** Procedure for reimbursement for interim assistance and special services is as follows:

A. Upon determining SSI eligibility for a person who has completed an interim assistance authorization agreement, the Social Security Administration forwards the initial SSI payment to the local agency. Within ten days of receipt of the initial SSI payment, the local agency shall disburse to the recipient the difference between the initial SSI payment and the total amount of general assistance provided during the period for which the initial SSI payment is made. From the interim funds available, the local agency:

(1) shall retain 25 percent of the general

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assistance paid to the assistance unit based on state assistance standards plus any excess paid to the assistance unit above the state assistance standard;

(2) may retain, for provision of special services which result in the recipient being determined eligible for SSI, an additional 25 percent of the general assistance paid to the assistance unit based on state assistance standards. Such special services must include the provisions of subpart 9, items A to D; and

(3) may retain, in addition to the amounts claimed in subitems (1) and (2), reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 9 which result in the recipient being determined eligible for SSI.

B. The amount retained by the local agency as reimbursement for the provision of special services to an applicant or recipient shall not exceed the amount of interim funds available.

C. The balance of the interim funds which are not retained by the local agency or paid to a qualified provider as reimbursement for the provision of special services as in item A, subitems (2) and (3), shall be forwarded promptly to the Department of Human Services.

D. The local agency must document its own costs and costs incurred by qualified providers in providing the special services. If the local agency provides the special services, reimbursement of administrative costs shall be claimed only for the direct costs of the special service provision. The amount retained shall not exceed the reasonable actual cost of providing the special services.

Subp. 11. **Reimbursement to qualified providers under contract to provide special services.** Qualified providers of special services are reimbursed in the following manner:

A. The local agency shall by contract reimburse a qualified provider for the reasonable actual costs, fees, and disbursements related to appeals and litigation and provision of

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the special services to a recipient as provided in subpart 9 if the local agency has received the initial SSI payment for that recipient.

B. In order to receive reimbursement for the costs, fees, and disbursements related to appeals and litigation and the provision of special services which assist a general assistance applicant or recipient to apply for and obtain SSI benefits, the qualified provider shall enter into a contract with the local agency and must provide one or more of the special services specified in subpart 9. A qualified provider shall not be reimbursed for any part of his or her costs, fees, or disbursements unless the local agency has received the initial payment from SSI for the recipient served.

A qualified provider under contract with the local agency shall not receive reimbursement for services in excess of $75 per hour. A qualified provider shall not require prepayment of any costs, fees, or disbursements from the applicant or recipient, and shall agree that the reimbursement received under contract with the local agency constitutes full and complete payment for all services rendered. When the qualified provider requests reimbursement from the local agency for the services provided under contract, the qualified provider must document the total number of hours of services provided to the recipient.

C. When one or more qualified providers have provided special services to a recipient, the total reimbursement made to the qualified providers shall not exceed the amount of interim funds retained by the local agency as in subpart 10, item A, subitems (2) and (3) unless the excess is expressly authorized under contract and provided only with local agency funds.

D. If more than one qualified provider provides the special services in subpart 9 to an applicant or recipient, the reimbursement to each qualified provider for his costs, fees, and disbursements shall be the amount derived by multiplying the total amount of interim funds retained by the local agency as in subpart 10, item A, subitems (2) and (3) by the qualified provider's reimbursement percentage. The qualified provider's

reimbursement percentage is determined by dividing each qualified provider's total number of hours of special services by the total number of hours of special services provided by the local agency and all other qualified providers under contract who have served the applicant or recipient.

E. The services in subpart 9, when provided during the six-month period prior to an application for general assistance, shall be reimbursed if the local agency determines that the services contributed substantially to the applicant's or recipient's obtaining SSI benefits. The reimbursement shall be made only if interim funds remain after reimbursement for services rendered subsequent to the application for general assistance.

F. If the applicant or recipient and the local agency agree to terminate a contract with a qualified provider, the contract for special services for that applicant or recipient shall be terminated.

G. The local agency and a qualified provider may agree through contract to jointly provide the special services of subpart 9.

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD604E

Agency: Department of Human Services

Division:

Agency Contact: Deb Flanagan

Minnesota Rules: Part 9555.3417

Title: Proposed Emergency Rule Governing General Assistance

Type of Rules: Emergency

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Susan M. Lentsch
Assistant Revisor
Phone: 296-0956
Date: August 20, 1984

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES GOVERNING INTERIM ASSISTANCE REIMBURSEMENT UNDER GENERAL ASSISTANCE, MINNESOTA RULES, PART 9555.3417 (EMERGENCY).

ORDER ADOPTING EMERGENCY RULES

The above-entitled matter was published in the State Register on September 3 , 1984 , as a proposed emergency rule pursuant to Minnesota Statutes, sections 14.29 - 14.36.

After affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED that these rules identified as emergency rules Governing **Interim Assistance Reimbursement Under General Assistance, Minnesota Rules, Part 9555.3417 (Emergency).**

are adopted this 8 day of **October** , 1984, pursuant to authority vested in me by **Minnesota Statutes 1983 Supplement, Section 256D.06, Subd. 5.**

STATE OF MINNESOTA

COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Emergency Rules of the State Interim Assistance Reimbursement Under General Assistance, Minnesota Rules, part 9555.3417 [Emergency]

ORDER FOR PUBLICATION OF EMERGENCY RULES

IT IS ORDERED this 17 day of August, 1984 that the proposed emergency rules in the above-entitled matter be published in the State Register.

STATE OF MINNESOTA

LEONARD W. LEVINE
Commissioner of Human Services

EW-21

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

Proposed Emergency Rules Governing
Interim Assistance Reimbursement
under General Assistance, Minnesota
Rules, part 9555.3417 [Emergency]

NOTICE OF INTENT TO ADOPT
EMERGENCY RULES

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Laws 1983, Chapter 312, Article 8, subdivision 7.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency 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:

Debra Flanagan
Rulemaking Unit
Department of Human Services
Fourth Floor
Space Center Building
444 Lafayette Road
St. Paul, MN 55101

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

Notice of the date of submission of the proposed emergency rule to the attorney general will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency 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 emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Minnesota Rules, part 9555.3417 establishes a system for screening and referring general assistance applicants and recipients to other maintenance benefit programs. Special services are offered to assist general assistance applicants and recipients in establishing eligibility for other maintenance benefit programs. The proposed emergency rule also provides for interim assistance reimbursement to qualified providers who assist general assistance applicants and recipients in obtaining benefits from other programs.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the legislature.

A free copy of the proposed emergency rule may be obtained by contacting Mike Sirovy, Policy Development, Department of Human Services, Second Floor, Space Center Building, 444 Lafayette Road, St. Paul MN 55101, 612/297-2011.

LEONARD W. LEVINE
Commissioner of Human Services

EW-19

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING INTERIM ASSISTANCE REIMBURSEMENT UNDER GENERAL ASSISTANCE, MINNESOTA RULES, PART 9555.3417 (Emergency)

AFFIDAVIT OF MAILING

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

That on the 29 day of August, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Emergency 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 Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department.

Wendy Johnson

Subscribed and sworn to before me
this 30 day of August, 1984.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept. 22, 1985

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING INTERIM ASSISTANCE REIMBURSEMENT UNDER GENERAL ASSISTANCE, MINNESOTA RULES, PART 9555.3417 (Emergency)

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 29 day of August , 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to serving the attached Notice of Intent to Adopt Emergency Rules to all persons and associations who have requested that their names be placed on file with for the purpose of receiving notice of the proposed adoption of rules by this Department, she also served the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following agencies:

Hennepin County General Asst.
Mpls. Legal Aid
So MN Legal Aid
MARC
RISE, Inc.
NOSCAR
Economic Assistance, State of MN
Disability Determination Services
Mental Health Assoc.

Wendy Johnson

Subscribed and sworn to before me
this 30 day of August, 1984.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1989

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING INTERIM ASSISTANCE REIMBURSEMENT UNDER GENERAL ASSISTANCE, MINNESOTA RULES, PART 9555.3417 (Emergency)

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. S.14.14, subd. 1, that their names be placed on file with and maintained by the Department of Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 6:00, P.M., this 29 day of August , 1984.

Wendy Johnson

commissioner's decision must include notification of the county board's right to appeal the decision under subpart 8.

Subp. 6. Biennial redetermination of need. Each provider of a service licensed by the commissioner, except foster care, shall submit to the county board of the county where the service is located a request for a redetermination of need. The request must be submitted at the time specified by the county board, but at least every 24 months.

Within 30 days of receipt from a provider, the county board shall forward to the commissioner a letter with respect to the continued need for the service. The letter must state whether the county board recommends continuation, continuation with modifications, discontinuation of the service, or decertification of ICF/MR services. The recommendations of the county board must be based on the service needs of persons with mental retardation for whom the county is financially responsible, and for persons from other counties for whom the county board has agreed to serve as host county, which are documented in the county's community social services plan.

The commissioner shall make the final redetermination of need for the service after considering the factors in subpart 3, and the recommendations of the county board. The commissioner shall notify the county board of the decision within 30 days of receipt of the county board's letter of recommendation.

Subp. 7. Effect of need determination or redetermination. If the county board or the commissioner determines that the service, modification, or expansion is not needed, the service, modification, or expansion shall not be paid for or reimbursed from federal or state money identified in part 9525.0025 [Emergency]. If the determination or redetermination is appealed, the effect of this provision may be stayed pending the outcome of the appeal.

Subp. 8. Appeal of commissioner's need determination or redetermination. Determination or redetermination of need may be appealed by the county board in accordance with Minnesota Statutes, chapter 14. Notice of appeal must be received by the commissioner within 30 days after the notification of the commissioner's decision was sent to the county.

9525.0145 [Emergency] ENFORCEMENT.

If the commissioner has reasonable grounds to believe that a county board has not complied with or is failing to comply with parts 9525.0015 to 9525.0135 [Emergency], the commissioner may issue a written order requiring the county board to comply. The county board shall comply with the order. If the county board disagrees with the commissioner's order, the county board may appeal the decision to the commissioner and request reconsideration. To be reconsidered, the appeal must be filed in writing with the commissioner within ten working days of the date that the commissioner issued the order. The appeal must state the reasons why the county board is appealing the commissioner's order and present evidence explaining why the county board disagrees with the commissioner's order. The commissioner shall review the evidence presented in the county board's appeal and send written notification to the county board of the decision on the appeal. The commissioner's decision on the appeal is final.

REPEALER. Minnesota Rules, parts 9525.0010 to 9525.0100, are repealed.

APPLICATION. Notwithstanding any rule or law to the contrary, upon expiration of parts 9525.0015 to 9525.0145 [Emergency], permanent parts 9525.0010 to 9525.0100, are reinstated.

Department of Human Services

Proposed Emergency Rules Governing General Assistance

Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Laws 1983, Chapter 312, Article 8, subdivision 7.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency 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:

Debra Flanagan
Rulemaking Unit
Department of Human Services
Fourth Floor
Space Center Building
444 Lafayette Road
St. Paul, MN 55101

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

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency 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 emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Minnesota Rules, part 9555.3417 establishes a system for screening and referring General Assistance applicants and recipients to other maintenance benefit programs. Special services are offered to assist General Assistance applicants and recipients in establishing eligibility for other maintenance benefit programs. The proposed emergency rule also provides for interim assistance reimbursement to qualified providers who assist General Assistance applicants and recipients in obtaining benefits from other programs.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the Legislature.

A free copy of the proposed emergency rule may be obtained by contacting Mike Sirovy, Policy Development, Department of Human Services, Second Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, 612/297-2011.

Leonard W. Levine
Commissioner of Human Services

Emergency Rule as Proposed (all new material)

9555.3417 [Emergency] GENERAL ASSISTANCE.

Subpart 1. Definitions. The terms used in this part have the meanings given them.

A. The definitions in part 9555.3400 [Emergency] apply to this part.

B. "Initial SSI payment" means the first payment of benefits made for an SSI recipient which includes any retroactive amounts due to the SSI recipient for the period in which eligibility was being determined.

C. "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the local agency for the amount of general assistance provided to him or her by the local agency during the period in which eligibility for another maintenance benefit program was being determined. The agreement shall require reimbursement to the local agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

D. "Interim funds" means the total amount of general assistance provided during the period in which the general assistance recipient was also eligible for SSI.

E. "Other maintenance benefits" means maintenance benefits provided under law or rule pertaining to workers' compensation, unemployment compensation, railroad retirement, veteran's disability benefits, supplemental security income, social security disability insurance, or other benefits identified by the local agency for which the applicant or recipient is potentially eligible.

F. "Potentially eligible" means that the local agency has determined that the applicant or recipient appears to meet the eligibility requirements of another maintenance benefit program.

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

G. A "qualified provider" means the local agency, or:

(1) a nonprofit legal assistance organization;

(2) an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy.

(3) another organization or person, including private attorneys at law, determined by the local agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

H. "SSI" means the supplemental security income program administered by the Social Security Administration.

Subp. 2. Applicability. This part establishes the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance concerning application for maintenance benefits from other sources, execution of an interim assistance authorization agreement, provision of special services to assist the applicant or recipient in applying for other maintenance benefits, and reimbursement of interim assistance and reimbursement for provision of special services. This part shall be read together and with parts 9555. 3400 to 9555.3410 [Emergency] and 9500.0500 to 9500.0610. To the extent that this part conflicts with parts 9555.3400 to 9555.3410 [Emergency] or 9500.0500 to 9500.0610, this part shall prevail.

Subp. 3. Screening requirement. The local agency shall screen general assistance applicants or recipients in the following manner:

A. The department shall provide each local agency with initial training and information concerning other maintenance benefit programs. Following the initial training, the local agency shall determine the potential eligibility of each general assistance applicant or recipient for maintenance benefits from other sources. If the local agency determines that the person is potentially eligible for another maintenance benefit, the local agency shall inform the person of his or her rights and responsibilities in accordance with subpart 4. The determination of a general assistance applicant's potential eligibility for other maintenance benefits shall be made when application for general assistance is made. The determination of a general assistance recipient's potential eligibility for other maintenance benefits shall be made no later than the semi-annual redetermination of eligibility for general assistance, or when the local agency determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits, whichever is earlier.

B. The results of the determination made by the local agency as in item A must be documented on forms prescribed by the commissioner and be retained in the local agency case record for each general assistance applicant or recipient.

C. A recipient who has been determined by the local agency to be potentially eligible for another maintenance benefit, and who has applied and has been found ineligible for that other maintenance benefit program, shall not be required to apply again for that other maintenance benefit program unless one of the following conditions is met:

(1) the local agency determines that the applicant's or recipient's health or other circumstance has changed and the change may result in eligibility for that other maintenance benefit program; or

(2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

Subp. 4. Informing requirement. Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall provide the applicant or recipient with written and oral information concerning all of the following:

A. The requirement that the applicant or recipient apply for the other maintenance benefit program in subpart 6, item A.

B. The requirement, if applicable, to execute an interim assistance authorization agreement provided for in subpart 6, item H.

C. The requirement to comply with those procedures necessary for the determination of eligibility or ineligibility for the other maintenance benefit program in subpart 6, item F.

D. The requirement to authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with another maintenance benefit program office as in subpart 6, item C.

E. The type and estimated amount of benefits available from the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

F. The known eligibility requirements of the other maintenance benefit program for which the applicant or recipient has been determined to be potentially eligible.

G. Where to make application for the other maintenance benefit program for which the general assistance applicant or recipient has been determined to be potentially eligible.

H. How to apply for the other maintenance benefit program for which the general assistance applicant or recipient has been determined to be potentially eligible.

I. The availability of special services described in subpart 9 to assist the applicant or recipient in applying for SSI benefits, and the applicant's or recipient's right to choose either the local agency or another qualified provider of the special services.

J. Notice of the actions to be taken if the applicant or recipient fails to comply with subpart 6, items A, C, F, and H.

K. Notice of the applicant's or recipient's right to appeal the determination of ineligibility for general assistance due to noncompliance with subpart 6, items A, C, F, and H.

Subp. 5. Referral requirement. The local agency shall refer applicants or recipients to other maintenance benefit programs as follows:

A. Upon determining that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall refer the applicant or recipient to that other maintenance benefit program. The referral must be made on forms prescribed by the commissioner.

B. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall offer to the applicant or recipient the special services needed to assist him or her in applying for and obtaining SSI as in subpart 9, and shall furnish him or her with a list of qualified providers.

C. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall refer him or her to the Social Security Administration local office to apply for SSI benefits. If the applicant or recipient elects to receive the special services in subpart 9 from a qualified provider other than the local agency, the local agency shall enter into a contract with that qualified provider for special assistance to the applicant or recipient in applying for and obtaining SSI.

D. Upon referral as in item C, the local agency shall promptly notify the Social Security Administration local office of the date of referral so that the local agency may determine the earliest potential date of eligibility for SSI for recovery of interim funds.

Subp. 6. Actions required of applicants or recipients. Applicants or recipients must comply with the following:

A. An applicant or recipient who has been referred as in subpart 5, item A or C, must apply within 30 days of the date of referral for the other maintenance benefit programs for which he or she has been determined to be potentially eligible.

B. If verification is not available from the recipient, the local agency must contact the other maintenance benefit program local office to determine if the recipient has applied for benefits within the time period specified in item A. If the other maintenance benefit local office verifies that the recipient applied for those benefits within the time period specified in item A, the requirement to apply has been met.

C. An applicant or recipient who is referred to another maintenance benefit program as in subpart 5, item A or C, shall authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with that other maintenance benefit program office.

D. For purposes of exchanging private or confidential information about a person for whom a qualified provider has contracted to provide special services, the qualified provider shall be considered part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1.

E. If the other maintenance benefit program local office verifies that the recipient has not applied for those benefits within the time period specified in item A, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

F. A recipient who has been referred as in subpart 5, item A or C must comply with those procedures necessary for the determination of eiligibility or ineligibility for another maintenance benefit program.

G. If the local agency determines that the recipient has not complied with those procedures necessary for the determination of eligibility for maintenance benefits from another source, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

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.

H. An applicant or recipient who has been referred as in subpart 5, item A or C, must execute an interim assistance authorization agreement, if applicable, within 30 days of the date of referral.

I. If the recipient fails to complete an interim assistance authorization agreement within the time period specified in item H, the local agency shall notify the recipient of its intent to terminate eligibility for general assistance as in subpart 7.

J. If, for reasons beyond his or her control, a recipient is unable to comply with the requirements of item A, C, F, or H, the recipient must inform the local agency of his or her inability to comply within 30 days of the date of referral. The local agency must attempt to resolve the circumstances which prevent the recipient from complying with the requirements. If the local agency and the recipient are unable to resolve the circumstances, the client shall be found to have good cause for failure to comply with the requirements.

Subp. 7. Ineligibility. The following conditions govern termination of general assistance eligibility for persons who, without good cause as in subpart 6, item J, do not comply with the requirements of subpart 6.

A. A recipient who, without good cause as in subpart 6, item J, fails to comply with the requirements of subpart 6, shall be found ineligible for general assistance. The local agency shall notify the recipient of its intent to terminate eligibility for general assistance at least 30 days before reducing, suspending, or terminating the grant due to the recipient's failure to comply with subpart 6. The notice must:

(1) be in writing on a form prescribed by the commissioner;

(2) be mailed or given to the recipient not later than 30 days before the effective date of the action;

(3) clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued should the recipient file an appeal; and

(4) state the requirements which the recipient must comply with in order to end the period of ineligibility; and

(5) notify the recipient of the continued availability of special assistance as in subpart 9.

B. Upon notification as in item A, the local agency shall offer the recipient assistance to meet the requirements.

C. The period of ineligibility shall begin on the first day of the first calendar month following the 30-day period specified in item A and shall continue until the person fulfills the requirements of subpart 6. If the ineligible person subsequently applies for general assistance, the application shall be denied unless the requirements of subpart 6 are met.

D. If the person is determined to be ineligible under item A, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

E. If the recipient complies with subpart 6 within the 30 days specified in item A, no period of ineligibility shall be imposed.

Subp. 8. Appeals. A recipient who is determined ineligible for general assistance under subpart 7 may appeal the determination. The appeal must be a written request for a hearing submitted to the department or to the local agency under Minnesota Statutes, section 256.045. If the recipient appeals on or before the effective date of the notice of ineligibility for general assistance under subpart 7, item A, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance. If the appeal is denied, the amount of general assistance paid to the recipient during the appeal process shall be recoverable from the recipient or his or her estate by the county or the state as a debt due the county or state or both in proportion to the contribution of each.

Subp. 9. Special services. Special services which assist a general assistance applicant or recipient to obtain SSI benefits for which reimbursement may be claimed under subpart 10 or 11 are:

A. additional explanation or counseling regarding application for and the benefits available through the SSI program;

B. assistance in completion of the application for SSI and arranging appointments related to application for SSI;

C. assistance to the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues which may arise during the SSI eligibility determination process;

D. provision of currently available medical, social, or vocational evidence which may substantiate the presence and severity of blindness or disability;

E. assistance in obtaining and using additional medical, social, or vocational evidence or expert testimony and assisting the applicant or recipient in cooperating with the Social Security Administration and its agents, procedures, and requirements;

F. assistance with necessary transportation;

G. preparation for and representation at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security Administration's determination of ineligibility for SSI;

H. if a local agency, developing a contractual agreement with the qualified provider chosen by the applicant or recipient; and

I. other services to assist the person in establishing eligibility for SSI benefits.

Subp. 10. Reimbursement for interim assistance and special services. Procedure for reimbursement for interim assistance and special services is as follows:

A. Upon determining SSI eligibility for a person who has completed an interim assistance authorization agreement, the Social Security Administration forwards the initial SSI payment to the local agency. Within ten days of receipt of the initial SSI payment, the local agency shall disburse to the recipient the difference between the initial SSI payment and the total amount of general assistance provided during the period for which the initial SSI payment is made. From the interim funds available, the local agency:

(1) shall retain 25 percent of the general assistance paid to the assistance unit based on state assistance standards plus any excess paid to the assistance unit above the state assistance standard;

(2) may retain, for provision of special services which result in the recipient being determined eligible for SSI, an additional 25 percent of the general assistance paid to the assistance unit based on state assistance standards. Such special services must include the provisions of subpart 9, items A to D; and

(3) may retain, in addition to the amounts claimed in subitems (1) and (2), reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 9 which result in the recipient being determined eligible for SSI.

B. The amount retained by the local agency as reimbursement for the provision of special services to an applicant or recipient shall not exceed the amount of interim funds available.

C. The balance of the interim funds which are not retained by the local agency or paid to a qualified provider as reimbursed for the provision of special services as in item A, subitems (2) and (3), shall be forwarded promptly to the Department of Human Services.

D. The local agency must document its own costs and costs incurred by qualified providers in providing the special services. If the local agency provides the special services, reimbursement of administrative costs shall be claimed only for the direct costs of the special service provision. The amount retained shall not exceed the reasonable actual cost of providing the special services.

Subp. 11. Reimbursement to qualified providers under contract to provide special services. Qualified providers of special services are reimbursed in the following manner:

A. The local agency shall by contract reimburse a qualified provider for the reasonable actual costs, fees, and disbursements related to appeals and litigation and provision of the special services to a recipient as provided in subpart 9 if the local agency has received the initial SSI payment for that recipient.

B. In order to receive reimbursement for the costs, fees, and disbursements related to appeals and litigation and the provision of special services which assist a general assistance applicant or recipient to apply for and obtain SSI benefits, the qualified provider shall enter into a contract with the local agency and must provide one or more of the special services specified in subpart 9. A qualified provider shall not be reimbursed for any part of his or her costs, fees, or disbursements unless the local agency has received the initial payment from SSI for the recipient served.

A qualified provider under contract with the local agency shall not receive reimbursement for services in excess of $75 per hour. A qualified provider shall not require prepayment of any costs, fees, or disbursements from the applicant or recipient, and shall agree that the reimbursement received under contract with the local agency constitutes full and complete payment for all services rendered. When the qualified provider requests reimbursement from the local agency for the services provided under contract, the qualified provider must document the total number of hours of services provided to the recipient.

C. When one or more qualified providers have provided special services to a recipient, the total reimbursement made to the qualified providers shall not exceed the amount of interim funds retained by the local agency as in subpart 10, item

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A, subitems (2) and (3) unless the excess is expressly authorized under contract and provided only with local agency funds.

D. If more than one qualified provider provides the special services in subpart 9 to an applicant or recipient, the reimbursement to each qualified provider for his costs, fees, and disbursements shall be the amount derived by multiplying the total amount of interim funds retained by the local agency as in subpart 10, item A, subitems (2) and (3) by the qualified provider's reimbursement percentage. The qualified provider's reimbursement percentage is determined by dividing each qualified provider's total number of hours of special services by the total number of hours of special services provided by the local agency and all other qualified providers under contract who have served the applicant or recipient.

E. The services in subpart 9, when provided during the six-month period prior to an application for general assistance, shall be reimbursed if the local agency determines that the services contributed substantially to the applicant's or recipient's obtaining SSI benefits. The reimbursement shall be made only if interim funds remain after reimbursement for services rendered subsequent to the application for general assistance.

F. If the applicant or recipient and the local agency agree to terminate a contract with a qualified provider, the contract for special services for that applicant or recipient shall be terminated.

G. The local agency and a qualified provider may agree through contract to jointly provide the special services of subpart 9.

Department of Human Services

Proposed Emergency Rules Governing Medical Assistance Prepaid Demonstration Project

Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Statutes, sections 256.991 and 256B.69 to 256B.70.

Persons interested in these rules have until 4:30 on September 28, 1984 to submit written comments. The proposed emergency 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 G. Meyer
Department of Human Services
Bureau of Income Maintenance
Health Care Programs Division
Office of New Initiatives
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/297-2670

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

Notice of the date of submission of the proposed emergency rule to the attorney general will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by Minnesota Statutes, sections 14.29 to 14.36 and 256.991, these emergency rules shall be in effect for up to 360 days following their adoption and may be continued in effect for an additional 900 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 emergency rules shall not be effective beyond December 31, 1986 without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Minnesota Rules, Parts 9500.1450 to 9500.1474 [Emergency] establishes a demonstration project to determine whether or not public expenditures for medical assistance can be better controlled while ensuring that all participants receive necessary health care in a coordinated fashion by implementing a budgeted, prepaid reimbursement system. Part 9500.1451 [Emergency] lists the waivers of provisions under Title XIX of the Federal Social Security Act for implementation of the

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED
ADOPTION OF EMERGENCY RULES
GOVERNING INTERIM ASSISTANCE
REIMBURSEMENT UNDER GENERAL
ASSISTANCE (Part 9555.3417)

FINDINGS OF FACT
AND CONCLUSIONS

The Commissioner published notice of proposed emergency rule on the above-entitled matter in the State Register on September 3, 1984. Notice was also sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, section 14.14, subdivision 1, on August 29, 1984. After affording all interested and affected persons an opportunity to submit comments for 25 days after the notice and reviewing and considering the comments, I find the following:

1. In part 9555.3417 [Emergency] of the proposed rule, subpart 1, item D, the Department defined "interim funds" to mean the total amount of general assistance provided during the period in which the general assistance recipient was also eligible for SSI. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested that tne definition is inaccurate, confusing, and unnecessary. The Commissioner has reviewed the definition and agrees that the definition as proposed is inaccurate and unnecessary. Therefore, the definition has been deleted. p.1

2. In part 9555.3417 [Emergency] of the proposed rule, subpart 1, item F, the Department defined "qualified provider" to include another organization or person, including private attorneys at law, determined by the local agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested that private attorneys have, by virtue of the licenses confered on them, sufficient training and experience to provide the special services necessary, and that local agency review of the experience and training of a private attorney is not necessary. The Commissioner agrees with this suggestion and has modified the definition to accommodate the suggestion. p.2

3. In part 9555.3417 [Emergency] of the proposed rule, subpart 4, item D, and subpart 6, items C and D, the Department stated that an applicant or recipient who is referred to another maintenance benefit program must authorize the local agency or a qualified provider to exchange information concerning the applicant or recipient with the other maintenance benefit program. The Department also specified that a qualified provider is considered part of the welfare system under Minnesota Statutes, section 13.46. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested that the authorization required of the applicant or recipient should be limited to data

relevant to qualifying for another maintenance benefit program. Mr. Swanson also suggested that a qualified provider might be subject to unreasonable and unnecessary disclosure of confidential information if the proposed language is adopted. The Commissioner agrees with the suggestions and has modified the rule to incorporate the intent of the suggestions. p.4,6

4. In part 9555.3417 [Emergency], subpart 5, item C, the Department included provisions which would allow an applicant or recipient to select a qualified provider of special services at the time of initial screening and referral to another maintenance benefit program. Those provisions also required the local agency to enter into a contract with the chosen qualified provider. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested that the rule should allow an applicant or recipient to select a qualified provider of special services at times other than the initial screening, and suggested that the county should be obligated to enter into a contract with the provider chosen at that time. The Commissioner agrees with and accepts the suggestions, and has modified the rule to incorporate the intent of the suggestions.

Another commentor, Ms. Linda Ewen of Anoka County Financial Services Department, suggested that the rule specify the provisions of the contract between the local agency and the qualified provider. The Commissioner agrees that the provisions of the contract should be specified in the rule and has itemized those provisions in subpart 7. One provision requires that the recipient be referred to the qualified provider in order for the provider to be reimbursed under the contract. This provision necessitates stating the requirement that the local agency refer the applicant or recipient to the chosen qualified provider. The rule is therefore modified to incorporate this needed change. p.5

5. In part 9555.3417 [Emergency] of the proposed rule, subpart 5, item D, the Department required that the local agency notify the Social Security Administration district office of the date of referral so that the local agency could determine the earliest possible date of eligibility for SSI. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project suggested that the intent should be to establish the earliest possible date of eligibility. The Commissioner believes that establishing the earliest possible date of SSI eligibility is more on point with the purpose of the contact and is a necessary precedent to the recovery of funds. The suggestion from Mr. Swanson is appropriate. The language of the rule has been modified accordingly. p5

6. In part 9555.3417 [Emergency] of the proposed rule, subpart 6, item J, the Department required that a recipient inform the local agency when he or she is unable to comply with certain requirements. The informing was required within 30 days of the date of referral to another maintenance benefit program. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project suggested that some disabled recipients who may be eligible for SSI might have difficulty in complying with those requirements within the 30 day period, and suggests adoption of a 60 day period. The Commissioner agrees with and accepts the suggestion. p.7

7. In part 9555.3417 [Emergency] of the proposed rule, subpart 7, items A and B, the Department specified the conditions governing termination of general assistance eligibility for a recipient who does not comply with the requirements of subpart 6. One commentor, Mr. Jerry Jagodzinski of the Hennepin County Department of Economic Assistance, raised several questions concerning the clarity of these provisions and suggested that other services might be included in the notification requirements. Another commentor, Mr. Steve Swanson of the Legal Services Advocacy Project suggested that the provision requiring that the local agency inform the recipient of the requirements which must be complied with should not only indicate how the recipient can end a period of ineligibility, but should also allow for the avoidance of a period of ineligibility. The Commissioner agrees with the suggestions and has clarified when and how notification and ineligibility will take place, and has specified the provisions required in the notice. p.8

8. In part 9555.3417 [Emergency] of the proposed rule, subpart 8, the Department specified that the general assistance paid to a recipient during the appeal process shall be recoverable from the recipient or his or her estate if the recipient loses the appeal. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested revision to this section. During discussion with Mr. Swanson of his written comments, Mr. Swanson questioned whether the Commissioner was authorized by Minnesota Statute to recover from the person's estate. Upon review of Mr. Swanson's written and oral comments, the Commissioner discovered that the provision allowing for recovery from the recipient's estate was technically inconsistent with Minnesota Statutes, section 256D.16. The Commissioner has reworded the rule to avoid the inconsistency with the statute. p.9

9. In part 9555.3417 [Emergency] of the proposed rule, subpart 9, item D, the Department specified that provision of currently available medical, social, or vocational evidence which may substantiate the presence and severity of blindness or disability is a reimbursable special service. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested insertion of the term "expert testimony" in order to clarify that expert testimony is considered a special service and as such is reimbursable. Mr. Swanson's comments also state that items D and E are somewhat confusing. The Commissioner accepts these suggestions and has modified the rule to consider expert testimony as a reimbursable special service and to clarify that only local agency information must be made available. p.10

10. In part 9555.3417 [Emergency] of the proposed rule, subpart 10, item A, the Department specified the source and amount of interim funds available to the local agency for reimbursement for the general assistance provided to a recipient who is later found eligible for SSI benefits for the same time period. This item also identified the reimbursement available for provision of special services which result in the recipient being determined eligible for SSI. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested deletion of the definition of "interim funds". This suggestion is discussed in item 1 above, and has been accepted. Due to acceptance of that suggestion, the Commissioner has deleted the reference to interim funds

in this rule item, and has added language which specifies that reimbursement is available for the general assistance paid for the period for which the initial SSI payment is made.

Mr. Swanson also suggests clarification that the provisions of subitems (2) and (3) are subject to the provisions of subpart 11, item D. The Commissioner accepts this suggestion.

Mr. Swanson further states that the rule language implies an assessment by the local agency as to which special services actually "resulted" in the recipient being found eligible for SSI. Mr. Swanson therefore suggests deletion of the language specifying that the special services must "result in the recipient being determined eligible for SSI". The Commissioner's intent was that, once a recipient is found eligible for SSI, no further analysis of whether or not the services of subpart 9 contributed to the finding of SSI eligibility would be required. The Commissioner has modified the rule to clarify this intent.

11. In part 9555.3417 [Emergency] of the proposed rule, subpart 10, items B & C the Department required that the balance of the initial payment of SSI benefits not retained by the local agency or paid to a qualified provider be forwarded to the Department of Human Services. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested amendments to create consistency with the deletion of the definition of "interim funds" discussed in item 1 above. The commissioner accepts the suggestions and has modified the rule accordingly.

12. In part 9555.3417 [Emergency] of the proposed rule, subpart 11, items A and B, the Department set forth the provisions for reimbursement of a qualified provider for services and costs pursuant to a contract. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project suggested amendments which are discussed in items 9 and 11 above concerning payment for medical reports and expert testimony, and deletion of language concerning services which "assist a general assistance applicant or recipient to apply for and obtain SSI benefits". The Commissioner has accepted these suggestions and has modified the rule accordingly.

Another commentor, Ms. Linda Ewen of Anoka County Financial Services Department, suggested that the rule should specify the provisions of the contract between the local agency and the provider. Another commentor, Mr. Steve Swanson, suggested that the contract be on a form prescribed by the commissioner, and include a provision that the qualified provider shall be reimbursed at the rate of $75 or at a lower rate determined by the qualified provider. The Commissioner agrees with these comments and has modified the rule to accommodate the intent of the suggestions.

13. In part 9555.3417 [Emergency] of the proposed rule, subpart 11, item D, the Department stated the procedures for reimbursement when more than one qualified provider serves an applicant or recipient. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggested deletion of the definition of "interim funds". This suggestion was discussed in item 1 above, and was accepted by the Commissioner. In order to create consistency with that suggestion, the Commissioner has modified subpart 11, item D.

14. In part 9555.3417 [Emergency] of the proposed rule, subpart 11, item E, the Department specified that special services provided by a qualified provider during the six month period prior to application for general assistance shall be reimbursed if the local agency determines that the services substantially contributed to the applicant's or recipient's obtaining SSI benefits. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggests that whether the special services are provided before or after the application for general assistance does not appear to be relevant. The Commissioner agrees that the date of application for general assistance should not dictate the payment to a qualified provider. However, the Commissioner must also protect the public interest when disbursing public funds, and recognizes the need to establish a relevant durational standard for reimbursement of a qualified provider. Without such a standard, claims could be attempted for services rendered years prior to the application for general assistance and SSI. Such a result would be fiscally uncontrollable and administratively unworkable. Therefore, the Commissioner has modified the rule to provide reimbursement for services rendered within six months of the date that the local agency refers the client to a qualified provider.

Other commentors, Ms. Patricia Carlson of the Olmstead County Department of Social Services and Ms. Linda Ewen of the Anoka County Financial Services Department, raised concerns regarding potential administrative conflicts with county procedures. In examining the rule in response to these concerns, the Commissioner found that, in general, the administrative requirements imposed by this rule are necessary to the implementation of the legislature's intent. However, he did note that if the contract provisions were to be specified by him in rule, he would need to accommodate the various counties' legal restrictions involving contracting in order to assure that local agencies were indeed able to carry out the provisions of this rule. For this reason, the Commissioner included language in subpart 11, items B and C, to allow for variances from the rule where necessary to conform to county government contracting practices which by law supercede the state's authority under rule. ✓ p. 14

15. In part 9555.3417 [Emergency] of the proposed rule, subpart 11, item F, the Department stated provisions to allow termination of a contract with a qualified provider when the applicant or recipient and the local agency agree to the termination. One commentor, Mr. Steve Swanson of the Legal Services Advocacy Project, suggests that the qualified provider be notified of the termination. Mr. Swanson also suggests the addition of a new subpart which requires the local agency to notify a recipient when the local agency decides to discontinue providing services to the recipient. Another commentor, Ms. Linda Ewen of the Anoka County Financial Services Department, suggests that the rule include a section to address the procedure to be followed when a qualified provider decides to discontinue services to a client. The Commissioner agrees with these comments and has modified the rule by creating a new subpart and by inserting item F of subpart 12 in that new subpart. Subpart 13 now fully sets forth the procedures to be followed when termination of contracts and/or special services occur at the volition of the county, a qualified provider, or a client. ✓ p. 14, 15.

16. As a result of the Department's review of the comments received and the proposed rule, the Department has made a number of minor changes to correct problems of grammar, spelling, or lack of clarity in the proposed rule. Such changes did not change the substance of the rule. The changes to part 9555.3417 [Emergency] are:

Subp. 1, item D (lines 9 & 32, page 1)

Subp. 2, (lines 26 and 28, page 2)

Subp. 3, item A, (line 3, page 3)

Subp. 3, item C, (line 20, page 3)

Subp. 4, item A, (line 4, page 4)

Subp. 4, item B, (lines 6 & 7, page 4)

Subp. 4, item C, (line 9, page 4)

Subp. 4, item D, (line 13, page 4)

Subp. 4, item G, (lines 25 & 27, page 4)

Subp. 5, item B, (line 15, page 5)

Subp. 6, item C, (line 18, page 6)

Subp. 6, item J, (lines 19, and 22, page 7)

Subp. 7, (lines 26-28, page 7)

Subp. 7, item D, (line 11, page 9)

Subp. 7, item E, (lines 15, and 16, page 9)

Subp. 8, (lines 22-24, page 9)

Subp. 9, item D, (line 9, page 10)

Subp. 9, item E, (line 13, page 10)

Subp. 9, item H, (lines 23 and 24, page 10)

Subp. 9, item I, (lines 26 and 27, page 10)

Subp. 10, (line 29, page 10)

Subp. 10, item A, (line 33, page 10)

Subp. 11, item A, (line 17, page 12)

Subp. 11, item C, (lines 22, 24, and 26, page 13)

Subp. 11, item D, (line 3, page 14)

17. All comments concerning the proposed emergency rule received within the period allowed by law were considered by the Department.

18. The changes made to the proposed emergency rule are not substantial changes.

CONCLUSIONS

I hereby conclude that:

1. The Commissioner has statutory authority to promulgate this rule.

2. Proper notice of the Department's intent to adopt the proposed above-captioned emergency rule was given as required by law, and all interested persons were afforded an opportunity to submit data and views on the proposed emergency rule.

3. All modifications made to the proposed emergency rule are supported by the data and views submitted to the Department, and are not substantial changes.

4. The emergency rule, as modified, is necessary and reasonable.

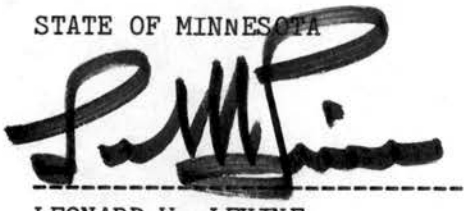
5. Any duplication in this rule of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rule to comprehend their meaning and effect.

6. The Department has complied with all applicable provisions of law and rule in the promulgation of this rule.

7. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

Dated: October 8, 1984

STATE OF MINNESOTA



LEONARD W. LEVINE
Commissioner of Human Services

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE OF MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING INTERIM ASSISTANCE REIMBURSEMENT UNDER GENERAL ASSISTANCE, MINNESOTA RULES, PART 9555.3417 (EMERGENCY).

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Vicki Sleeper 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 Procedures Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Vicki Sleeper
Special Assistant Attorney General

Dated: 10/8/84

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE DEPARTMENT OF HUMAN SERVICES EMERGENCY RULE GOVERNING INTERIM ASSISTANCE REIMBURSEMENT UNDER GENERAL ASSISTANCE, MINNESOTA RULES, PART 9555.3417 (EMERGENCY).

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

, being first duly sworn, deposes and says:

That on the 8th day of October, 1984, in the City of St. Paul, County of Ramsey, State of Minnesota, served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Linda S. Aldy

Subscribed and sworn to before me
this 8th day of October, 1984.

WAYLAND E. CAMPBELL
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My Commission Expires Feb. 20, 1986

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE DEPARTMENT OF HUMAN SERVICES EMERGENCY RULE GOVERNING INTERIM ASSISTANCE REIMBURSEMENT UNDER GENERAL ASSISTANCE, MINNESOTA RULES, PART 9555.3417 (EMERGENCY).

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes 1984, section 14.30 and 14.32:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, October , 8 , 19 84 for review for form and legality.

The attorney general shall review the proposed emergency rule as to its legality, review its form to the extent the form relates to legality, and shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, Room 204 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612)296-7030.

The proposed emergency rule has been modified. A free copy of the proposed emergency rule, as modified, is available upon request from:

Mike Sirovy
Policy Development
Department of Human Services
Second Floor
Space Center Building
444 Lafayette Road
St. Paul, MN 55101