

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1346 Docket No. 05.0009.6875

DATE RECEIVED 2/12/87
REVIEW DATE 2/21/87
DUE DATE 2/26/87

APPROVED 2/23/87
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING ✓
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
3/17/86 Date published in State Register
yes Comments

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule
yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
256B.503 + 256D.03 (7)b Statutory Authority
NO Small business statement
yes Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
12/3/86 Date (30)/25 days before adoption

✓ Publication in State Register
12/8/86 Date (30)/25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting
2/12/87 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
James Alexander Name of SAAG representing agency

✓ Notice of Submission to Attorney General

✓ Affidavit of Mailing Notice to Attorney General

✓ Certificate

✓ Notice of Intent to Cancel Hearing if fewer than 25 persons request a hearing...

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT

Office Memorandum

ATTORNEY GENERAL

TO:

DATE:

ELEANOR WEBER
Department of Human Services
444 Lafayette Road

2/24/87

FROM:

PHONE:

J. MICHAEL MILES
Assistant Attorney General

6-6555

SUBJECT:

In the Matter of the Proposed Adoption of Rules of the Department of Human Services Governing Inpatient Hospital Admission Certification in the Medical Assistance Program.

The above-referenced rule has been approved as to its legality by the Attorney General on February 23, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

:nah

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Department of Human Services

Adopted Permanent Rules Relating to Hospital Admission Certification

Rules as Adopted

9505.0500 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Admission certification.** "Admission certification" means the determination of the medical review agent that inpatient hospitalization is medically necessary and that medical assistance or general assistance medical care funds may be used to pay the admitting physician, hospital, and other vendors of inpatient hospital services for providing medically necessary services, subject to parts 9500.0750 to 9500.1080, 9505.1000 to 9505.1040, and 9505.5000 to 9505.5105.

Subp. 4. to 23. [Unchanged.]

Subp. 24. **Readmission.** "Readmission" means an admission that occurs within seven days of a discharge of the same recipient.

Subp. 25. to 27. [Unchanged.]

9505.0510 APPLICABILITY.

Parts 9505.0500 to 9505.0540 establish the standards and procedures for admission certification to be followed by admitting physicians and hospitals seeking medical assistance or general assistance medical care payment for inpatient hospital services provided to medical assistance or general assistance medical care recipients under Minnesota Statutes, chapters 256B and 256D. Parts 9505.0500 to 9505.0540 are to be read in conjunction with Code of Federal Regulations, title 42, and titles XVIII and XIX of the Social Security Act. The department retains the authority to approve prior authorizations established under parts 9505.5000 to 9505.5105. Parts 9505.0500 to 9505.0540 do not apply to out-of-state hospitals and admitting physicians who seek medical assistance or general

Approved by Revisor

assistance medical care program payment for inpatient hospital services provided to recipients who are Minnesota residents. Instate admitting physicians who admit a Minnesota resident who is a recipient to an out-of-state hospital must comply with parts 9505.0500 to 9505.0540. Out-of-state admitting physicians who admit a Minnesota resident who is a recipient to an in-state hospital must comply with parts 9505.0500 to 9505.0540.

9505.0520 INPATIENT ADMISSION CERTIFICATION.

Subpart 1. **Requirement for admission certification.** Except as provided in subparts 2 and 14, an admission providing inpatient hospital service to a recipient must receive admission certification prior to the recipient's admission in order for the admitting physician, the hospital, or other vendor of an inpatient hospital service to receive medical assistance or general assistance medical care program payment for the inpatient hospital service.

Subp. 2. [Unchanged.]

Subp. 3. **Admitting physician responsibilities.** The admitting physician who seeks medical assistance or general assistance medical care program payment for an inpatient hospital service to be provided to a recipient for a purpose other than chemical dependency treatment shall:

A. Obtain prior authorization from the department for any service requiring prior authorization. Medical assistance and general assistance medical care payment shall be denied when a required prior authorization is not obtained prior to admission.

B. to E. [Unchanged.]

Subp. 4. **Hospital responsibilities.** A hospital that seeks medical assistance or general assistance medical care program payment for inpatient hospital services provided to a recipient shall:

A. Obtain ~~from the admitting physician~~ the certification number from the admitting physician or, for an admission for chemical dependency treatment, from the person who

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conducted the assessment of the recipient for chemical dependency treatment as specified in parts 9530.6600 to 9530.6655.

B. and C. [Unchanged.]

Subp. 5. [Unchanged.]

Subp. 6. **Medical review agent responsibilities.** The medical review agent shall:

A. to G. [Unchanged.]

H. notify the admitting physician and the person responsible for the hospital's utilization review, by phone, of a reconsideration decision within 24 hours of the decision, exclusive of weekends and holidays;

I. mail a written notice of the reconsideration decision to the admitting physician, the person responsible for the hospital's utilization review, and the department within ten days of the determination, exclusive of weekends and holidays; ~~and~~

J. provide for consideration of a request for retroactive admission certification; and

K. issue a certification number for a recipient whose condition requires chemical dependency treatment in a hospital as indicated in an assessment made according to parts 9530.6600 to 9530.6655.

Subp. 7. and 8. [Unchanged.]

Subp. 9. **Reconsideration.** The admitting physician or the hospital may request reconsideration of a decision to deny or withdraw an admission certification. The admitting physician or the hospital shall submit the request in writing to the medical review agent within 30 days of the date of receipt of the letter denying or withdrawing admission certification. Upon receipt of the request, the medical review agent shall appoint at least three physician advisers, none of whom shall have been involved previously in the procedure for the recipient's admission certification, to hear the reconsideration. The reconsideration may be conducted by means of a telephone conference call. The admitting physician or the hospital may submit additional facts

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by Revisor _____

at their own expense to support the request for admission certification. The physician advisers may seek additional facts and medical advice as necessary to decide whether the admission is medically necessary. The reconsideration shall be completed within 30 days of the receipt of the request. The admitting physician or the hospital may appeal the determination of the physician advisers according to the contested case provisions of Minnesota Statutes, chapter 14, by filing a written notice of appeal with the commissioner within 20 days of the date of receipt of the notice of the determination.

Subp. 10. to 13. [Unchanged.]

Subp. 14. **Retroactive admission certification.** If the admitting physician fails to request admission certification by contacting the medical review agent prior to an admission for an inpatient hospital service other than a service under subpart 2, the admitting physician may retroactively request admission certification. The admitting physician shall submit at his or her own expense the recipient's complete medical record to the medical review agent within 30 days of the recipient's discharge. The medical record must contain the information required in subpart 3, items B and C, and any other facts necessary to establish that the recipient's admission was medically necessary. The procedure outlined in subpart 8 shall also be followed in the case of retroactive admission certification. The denial of retroactive admission certification and the withdrawal of retroactive admission certification may be appealed to the medical review agent through the reconsideration process in subpart 9.

9505.0530 INCORPORATION BY REFERENCE OF CRITERIA TO DETERMINE MEDICAL NECESSITY.

The most recent edition of the Appropriateness Evaluation Protocol of the National Institutes of Health is incorporated by reference. The book is available at the Health Data Institute, 7 Wells Avenue, Newton, Massachusetts, 02159, and it is also available through the Minitex interlibrary loan system. The

Approved
by Revisor _____

book is subject to change.

~~The Effective Care 81 Criteria for Residential Chemical Dependency Treatment, 1983 edition, and~~ The Criteria for Inpatient Psychiatric Treatment, 1981 edition, published by Blue Cross and Blue Shield of Minnesota are incorporated by reference. The criteria are available at Blue Cross and Blue Shield of Minnesota, P.O. Box 64560, Saint Paul, Minnesota 55164, and at the state law library, Ford Building, Saint Paul, Minnesota 55155. The criteria are not subject to frequent change.

9505.0540 CRITERIA TO DETERMINE MEDICAL NECESSITY.

Subpart 1. **Determination for admission for purpose other than chemical dependency treatment.** The medical review agent shall follow the Appropriateness Evaluation Protocol **and** ~~Effective Care 81 Criteria for Residential Chemical Dependency Treatment~~ and Criteria for Inpatient Psychiatric Treatment of Blue Cross and Blue Shield of Minnesota in determining whether a recipient's admission is medically necessary, whether the inpatient hospital services provided to the recipient were medically necessary, whether the recipient's continued stay will be medically necessary, and whether all medically necessary inpatient hospital services were provided to the recipient.

Subp. 2. **Determination for admission for chemical dependency treatment.** The assessment of a recipient's need for chemical dependency treatment in a hospital shall be made according to parts 9530.6600 to 9530.6655. The person who conducted the assessment shall contact the medical review agent and request a certification number. If the person who conducted the assessment reports that the recipient meets the criteria for chemical dependency treatment in a hospital, the medical review agent shall issue a certification number.

Approved by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 24 1987
Joan Anderson Growe 3:15PM
Secretary of State

APPROVED AS TO FORM AND LEGALITY
2/23 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
ASSISTANT ATTORNEY GENERAL

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Energy and Economic Development Financial Management Division

Availability of Issuance Authority in Competitive Pool

Pursuant to Minn. Stats. (1984), § 474.20, the Department gives notice that the amount of Industrial Development Bond issuance authority available in the Competitive Pool as of March 5, 1986, is $309,222,800.00 and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by March 10/25, 1986. Pursuant to Minn. Stat. (1984), § 474.19, Issuers must submit an application, a preliminary resolution, an application deposit and any other supporting documents required.

Balance of Competitive Pool on January 5, 1986	$348,822,800.00
Add:	
Returned Allocations:	$ NONE
Total Pool Available as of January 5, 1986	$348,822,800.00

Allocations awarded from the Competitive Pool during the two months ending March 5, 1986 are:

	Issuer	Project	No. of Pts.	Amount
2/20	Washington County HRA	55 Lake Place (Comml. Rdvlp.)		$ 250,000.00
2/20	Washington County HRA	Foodplex I (mfg.)		$ 3,000,000.00
2/20	Washington County HRA	Foodplex II (mfg.)		$ 3,000,000.00
2/20	Washington County HRA	Foodplex III (mfg.)		$ 2,000,000.00
2/20	Washington County	Foodplex IV (mfg.)		$ 2,000,000.00
3/05	Maple Grove	Maple Investments (mfg.)		$ 2,300,000.00
3/05	Warroad P.A.	Commercial Facilities Dvlp. (Comml. Rdvlpt.)		$ 2,400,000.00
3/05	Washington County HRA	Woodland Lakes I (Comml. Rdvlp.)		$ 9,500,000.00
3/05	Washington County HRA	Woodland Lakes II (Comml. Rdvlp.)		$ 9,190,000.00
3/05	Washington County HRA	Woodland Lakes III (Comml. Rdvlp.)		$ 5,960,000.00
Total Allocations Awarded:				$39,600,000.00

Amount of Issuance Authority Available as of March 5, 1986	$309,222,800.00

(Includes: Commercial Redevelopment $ 41,264,560.00
Pollution/Waste Management $122,612,980.00)

Department of Human Services Income Maintenance Bureau Health Care Programs Division

Outside Opinion Sought Concerning Amendments to Rules Establishing the Criteria for Determining the Appropriateness of Inpatient Hospital Admissions of and Services to Medical Assistance and General Assistance Medical Care Recipients

Notice is hereby given that the Minnesota Department of Human Services is considering amendments to Minnesota Rules, parts 9505.0500 to 9505.0540, establishing the criteria for determining the appropriateness of inpatient hospital admissions of and services to medical assistance and general assistance medical care recipients.

This rule is authorized by Minnesota Statutes, section 256B.503 and Minnesota Statutes, section 256D.03, subd. 7(b).

The proposed amendments include: 1) clarification of the definition of readmission; 2) extension of time within which medical review agent must mail written notice of decision on reconsideration request; 3) consideration of a request for retroactive admission certification; 4) criteria for inpatient psychiatric and chemical dependency treatment.

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

Deby Moerer
Health Care Program Investigator
Department of Human Services
444 Lafayette Road
St. Paul, Minn. 55101

Oral statements will be received during regular business hours over the telephone at 612/297-3713.

Statements of information and comment will be accepted until 4:30 p.m. on April 28, 1986. Any written material received by the Department shall become part of the record in the event the amended rules are promulgated.

Department of Jobs and Training

Updated Family Fee Payment Schedule for the Child Care Sliding Fee Program

Pursuant to Minnesota Rules [Emergency], part 3301.0570 (Child Care Sliding Fee Program), the Department of Jobs and Training hereby gives notice of the updated Family Fee Payment Schedule. This revised schedule is based on the 1986 state medium income estimate as published in the December 3, 1985 Federal Register. The schedules published are for family sizes two through six, and are effective until further notice. The fee schedules which have been published on this date as part of the Adopted Rules Relating to Employment, Minnesota Rules, parts 3301.0570 [Emergency] are no longer valid.

Any questions about the new schedules should be directed to:

Tom Romens
Room 690 American Center Building
St. Paul, Minnesota 55101
Telephone: 296-2647

March 10, 1986

Joseph Samargia, Commissioner
Department of Jobs and Training

Department of Jobs & Training
February 1, 1986

CHILD CARE INCOME ELIGIBILITY AND FEE SCHEDULE

Family of Two—State Median Income = $20,934

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
Below 25%	$0-5232	$0-436	$ 0
25.0	5233-5757	437-480	3
27.5	5758-6280	481-523	3
30.0	6281-6803	524-567	3
32.5	6804-7327	568-611	4
35.0	7328-7850	612-654	5
37.5	7851-8374	655-698	8
40.0	8375-8897	699-741	9
42.5	8898-9420	742-785	9
45.0	9421-9944	786-829	10
47.5	9945-10467	830-872	11

LEE H. BEECHER, M.D., P.A.
SUITE 121
CREEKSIDE PROFESSIONAL BUILDING
6600 EXCELSIOR BOULEVARD
ST. LOUIS PARK, MINNESOTA 55426-4746

PHONE (612) 935-7116

Original received 4-2-86

LEE H. BEECHER, M. D.
PSYCHIATRY

April 1, 1986

TO: Eleanor Weber

FROM: Lee Beecher, M. D.

RE: Preadmission Certification, Utilization Review Rules Changes and Policy.

In general, my review of the proposed changes does not suggest substantial disagreement with your proposals. However, speaking for myself and most of my colleagues who have been involved with the peer review process at BC/BS, we strongly advise the Department to abandon the four category DRG system for community based psychiatric hospital reimbursement. Rather, we feel that a negotiated per diem with utilization and peer review is a much more fair way to assess the appropriateness of reimbursement based on medical necessity. Further, we recommend that the Department of Human Services instruct its medical review agent to develop procedural standards including the following concepts:

1) Appropriate documentation that a physician participated in the decision to admit. This could involve either a face-to-face examination and/or a sufficiently detailed review of the findings of an allied health professional (i.e. nurse, psychologist, or social worker) prior to the decision to admit.

2) For psychiatric and chemical dependency cases there should be sufficient documentation on the part of attending physicians to understand the rationale for admission, the justification for continued stay, the treatment plan and process of treatment in the hospital setting, and the discharge planning with assignment of responsibility after hospitalization. In general, we feel it appropriate for physicians attending psychiatric patients to see the patients in person at least every 72 hours and make a note in the clinical record. For patients on inpatient chemical dependency services, the attending physician should see the patient within the first 24 hours and at least weekly thereafter. The physician note should reflect awareness of the actual treatment being rendered and an individualized assessment of the patient's needs.

3) At the present time, there are approximately 35 psychiatrist reviewers involved with BC/BS of Minnesota, the medical review agent for Medicaid reviews. These reviewers need to have more feedback about problems identified by the Department of Human Services in the area of utilization and quality review. Unanimously, these reviewers have agreed that the present four category DRG system for psychiatric admissions has made assessing the relevance of reimbursement based on DRGs very difficult. A negotiated per diem with utilization review and peer reveiw would allow the peer review process much more flexibility and individual appropriateness in making decisions.

4) The Department of Human Services should consider establishing a requirement for medical staff competencies in the area of psychiatric and chemical dependency treatment. This would be a medical staff function in the individual hospitals. The ingredients of this competency process for psychiatric treatment would include:

   1. Ability to diagnose DSM-III conditions.

   2. Ability to formulate plans of treatment using accepted community standards and state-of-the-art information.

   3. The ability to supervise allied health professional staff in the hospital based treatment plan program.

   4. Special competencies in psychopharmacology, electroconvulsive therapy, and psychotherapy modalities when these are part of the treatment plan.

      For chemical dependencies, competencies should include ability to recognize the existence of concomitant psychiatric disorders, deal with alcohol and substance abuse withdrawal, ability to network with community resources, Alcoholics Anonymous, etc. Overall, we feel that the role of physicians in hospital based chemical dependency programs should be clarified and improved.

Sincerely,

Lee Beecher

Lee Beecher, M. D.

LB:i

RULE 9505.0500 to 9505.0540 (NUMBER) · DRAFT OF 4/2, 1986 (DATE)

COMMENT SHEET OF Lee Beecher, M. D. (NAME OF REVIEWER) Minnesota Psychiatric Society

USE BLACK INK

IDENTIFY EACH COMMENT BY PAGE, RULE NUMBER, AND SECTION NUMBER, AND YOUR INITIALS

PAGE	RULE	SEC.	COMMENT	INITIALS
1 18-19			May I have a copy of current provider agreements? Have all physicians participating in the Medicaid Program signed and returned such agreements?	
2 9-20			Definition of hospital should require licensure by the Dept. of Health and current accreditation by the Joint Commission on Hospital Accreditation or some other nationally recognized accreditation body. What does "primarily for the treatment and care of patients with disorders other than mental diseases and tuberculosis" mean in terms of Minnesota hospitals?	
4 2- 5			. . . "and whether all medically necessary inpatient hospital services were provided." In order to provide consistency and guidance for peer review, procedural standards are needed. For example, in addition to disposing of acute care criteria for psychiatric admissions (e/g/ suicide risk), frequency of physician visits, documentation of progress, and discharge planning should be found in the medical record. Comment: It is most difficultfor peer reviewers to retrospectively decide that not enough medical care was provided, particularly in the absence of procedural standards.	
4 31-35			Since providers of direct patient services (i.e. physicians and hospitals) are both liable for reimbursement denial in the absence of admission certification, the Dept. should encourage collaberation between physicians and hospitals and request that data for admission certification review come from a designated hospital official (since hospitals bear the greatest financial risk).	
5 25-36 & 6 1-25			Detail as outlined should be obtained from the hospital official (who has consulted with the admitting physician) and the admitting physician should be available to the medical review agent if questions arise by the medical review agent. At all times, a physician should be available to the medical review agent to discuss the rationale and appropriateness of admission. This same physician should be the admitting and attending physician who will be responsible to justify the medical necessity of care and the quality of care provided in the hospital. The physician should indicate in his/her admission note the rationale for admission to the hospital which will become the factual basis on which appropriateness decisions will be made when reviews occur. Emergency Room consultations, office dictations and notes by physicians and other evidence of examination and/or consultation prior to admission shall be provided by physicians when appropriate.	

RULE 9505:0500 to 9505:0530 (NUMBER) · DRAFT OF 4/2/86 (DATE)

COMMENT SHEET OF Lee Beecher, M. D. (NAME OF REVIEWER) Minnesota Psychiatric Societ

USE BLACK INK

IDENTIFY EACH COMMENT BY PAGE, RULE NUMBER, AND SECTION NUMBER, AND YOUR INITIALS

PAGE	RULE	SEC.	COMMENT	INITIA
14-18	7		Physicians and hospitals do not wish to turn away patients who need medical care. However, in the absence of a rapid procedure to determine eligibility for public assistance, many psychiatric patients may need hospital care and are referred to the Crisis Intervention Center and/or County Hospital. This has created a bottleneck in the mental health care delivery system and puts the Crisis Center (Hennepin County) in a position of trying to bargain with patients who are likely to be uncompensated care and not reimbursed for the hospital and p.hysician. Therefore, this rule should contain a provision for emergency examination for medical assistance eligibility, particularly for mentally ill who may in all likelihood qualify at a later time for a Medicaid Program. The present uncertainty forces the use of civil commitment in order to access .public hospitals and state hospitals which contributes to a two tiered system of care and passes the buck for mentally ill patients who require Medicaid funding.	
33-36 1-28	10 11		This section deals with the Catch 22 of retrospective appraisals of underutilization of "medically necessary services" This is a big problem for the peer reveiw process; namely, if it is alleged that more treatment should have been provided during a hospital stay, how can one justify not reimbursing for any of the care which was provided? This is a major reason why the Minneso ta Psychiatric Society has advocated reimbursement on a per diem basis utilizing review criteria to determine appropriateness. With the later approach, hospitals and physicians could be paid for medically necessary treatment and would not have a perverse incentive to discharge prematurely. A retrospective withdrawal of a certification number does not appear to be an appropriate remedy for underutilization of services. This question gets to the need for standards of physician documentation, treatment planning, discharge planning, etc.	
			This is a quality issue which should be addressed explicitly. The current 4 category DRG hospital reimbursement methodology is an inappropriate method to individualize reimbursement for medically necessary care	
22-35	12		I suggest that the hospital be made responsible for obtaining preadmission certifications and that a physician be available to answer questions by the medical review agent. This physician should be the admitting and the attending physician; at all times, a physician should be able to justify the presence or absence of treatment rendered to a patient in a hospital. I agree with the reliance on medical records as documentation for medical necessity. In the peer review process, at times the admitting or attending physician has amplified or explained material sufficiently to satisfy the panel. However, the panel has been	

RULE 9505.0500 to 9505.0540 (NUMBER) · DRAFT OF 4/2/86 (DATE)

COMMENT SHEET OF Lee Beecher, M. D. (NAME OF REVIEWER) Minnesota Psychiatric Socieity

USE BLACK INK

IDENTIFY EACH COMMENT BY PAGE, RULE NUMBER, AND SECTION NUMBER, AND YOUR INITIALS

PAGE	RULE	SEC.	COMMENT	INITIAL
			reluctant to approve reimbursement when medical records are sparse ; documentations do not have timely physician notes, and do not reflect comprehensive discharge planning.	

May 22, 1986

Donna Anderson
Assistant Finance Director/Director of Admissions
University Hospital
420 Delaware Street S.E.
Minneapolis, Minnesota 55455

Dear Donna:

I am in receipt of your April 8, 1986 letter indicating your support of the proposed amendment for a retrospective admission certification process for elective admissions. The Department also appreciates your positive comments pertaining to the fact that medical necessity of inpatient treatment, not restrictive time parameters, should be the determinant of admission certification.

In conjunction with the above statement, I would like to respond to your comments pertaining to a physicians decision to admit a patient during the time period that the review agent is not personally available. It has never been the Department's intent to distract a physician from admitting a patient anytime of the day or week, in fact, the current process imposes the medical review agent to have a telephone recording system available to ensure coverage 24 hours a day, 7 days a week. Since the physician has made the determination that it's medically necessary to admit the patient, the medical review agent needs only to be notified.

Again, thank you for your comments on the proposed amendments to Minnesota Rules, parts 9505.0500 to 9505.0540.

Sincerely,

Deby Moerer
Health Care Programs Investigator
Professional Services Section

DM/ls

UNIVERSITY OF MINNESOTA
TWIN CITIES

University Hospitals and Clinics
420 Delaware Street S.E.
Minneapolis, Minnesota 55455

April 8, 1986

Deby Moerer
Health Care Program Investigator
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

Dear Deby:

This letter is in response to the March 17, 1986 notice in the State Register, requesting comments on proposed amendments to Minnesota Rules, parts 9505.0500 to 9505.0540. My comments relate to the third item --- consideration of a request for retroactive admission certification.

We at UMHC have expressed our concern before that requiring advance notice on all but emergency admissions creates the potential for delaying treatment and jeopardizing the health of the patient. This has especially been a problem evenings and weekends when the review agent is not available to be called for preadmission certification.

We understand that some guidelines are needed in order to maintain such an extensive screening program. Those procedures, however, should be reasonable and take into account that people get sick 24 hours a day, 7 days a week, and that decisions on treatment cannot always be postponed to the hours the review agent is available.

If a physician determines that a patient needs to be admitted in the evening or on a weekend, the hospital cannot overrule that decision and refuse to admit the patient because the review agent is not available to approve the hospitalization. Not all such cases could be classified as emergencies, but they may be urgent enough that a delay could worsen the patient's condition and result in a longer, more costly hospitalization.

There should be allowances, therefore, for retrospective reviews of admissions. If there are unnecessary admissions, hospitals and physicians are penalized by not being paid for them. The providers are at risk if they do not obtain certification in advance whenever that is feasible.

The determinant of certification should be the medical necessity of inpatient treatment, not restrictive time parameters. Refusing to pay for medically appropriate care, simply because the review agent wasn't called in advance, is unreasonable when the review agent is only available 40 hours a week.

Overly-restrictive procedures penalize the patients ultimately, as admissions may have to be delayed in order to comply with the letter of the law. We feel that a more reasonable approach will not dilute the effectiveness of the screening program, but would instead foster a more cooperative effort among all parties concerned.

Thank you for allowing our input on the proposed changes.

Sincerely,

Donna Anderson

Donna Anderson
Assistant Finance Director/Director of Admissions

DMA/dks

cc: Dan Rode, UMHC

UNIVERSITY OF MINNESOTA
TWIN CITIES

University Hospitals and Clinics
420 Delaware Street S.E.
Minneapolis, Minnesota 55455

April 8, 1986

Deby Moerer
Health Care Program Investigator
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

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STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to the Rule of the State Department of Human Services Minnesota Rules, parts 9505.0500 to 9505.0540, Governing Inpatient Hospital Admission Certification in the Medical Assistance Program.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on December 8, 1986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on December 3, 1986. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. The agency did not receive any requests for a public hearing.

Based on the comments and evidence in the record before the agency, I find the following:

Part 9505.0540, page 4, lines 20 to 29.

Two commentors, Debbie Carpenter, Utilization Review Coordinator, St. Paul-Ramsey Medical Center, and Cynthia Smith, Program Supervisor, Chrysalis, requested clarification of the criteria to be used to determine the need for chemical dependency treatment. Ms. Carpenter requested clarification of the relationship between the criteria used in Rule 25 (parts 9530.6600 to 9530.6655) and those to be required under parts 9505.0500 to 9505.0540. She also expressed the opinion that requiring two determinations based on different criteria would place an added burden on hospitals and would be confusing and inefficient. Ms. Smith requested clarification of how medical assistance authorizations and certifications are to be made for admitting recipients to a treatment center.
The department agrees with the commentors that there is a need to clarify the relationship between parts 9530.6600 to 9530.6655 and parts 9505.0500 to 9505.0540.
On January 1, 1987, parts 9530.6600 to 9530.6655 became effective. These parts relate to chemical dependency care for public assistance recipients. They include the criteria and procedure to be followed in assessing a recipient's need for hospital admission for chemical

dependency treatment. See part 9530.6630. The criteria in this part are quite similar to and consistent with the criteria in Effective Care '81 Criteria for Residential Chemical Dependency Treatment. For example, one requirement of Effective Care '81 is that the person is currently unable to effectively control chemical use at the time of admission, while part 9530.6630, item B requires the person to be unable to abstain from chemical use outside a residential facility. A similar relationship between the two sets of criteria is found in comparing part 9530.6630, item C and Effective Care '81. Item C requires one of the following conditions: 1.) loss or impairment of education or employment; 2.) lack of family support; 3.) arrest or legal intervention in the past year; 4.) participation in a chemical dependency treatment program in the past 12 months. The similar criteria in Effective Care '81 require one of the following: 1.)serious impairment in social, family, or occupational functioning; 2.)medical conditions that are not life-threatening which must be severe enough to warrant residential treatment; and 3.) failure of outpatient treatment within the past 12 months. Comparisons of the other criteria would show a similar relationship between the sets. Thus, there is no real difference between the requirements but merely a difference in the specificity with which the criteria are stated.

To require an assessment in compliance with parts 9530.6600 to 9530.6655 and another using the Effective Care '81 would be duplicative as all recipients meeting the rule requirements for treatment in a hospital would also be determined eligible under Effective Care '81 for hospital admission.

Therefore, the department finds it necessary and reasonable to modify the proposed amendment to part 9505.0540 as follows:

9505.0540. CRITERIA TO DETERMINE MEDICAL NECESSITY

Subpart 1. Determination for admission for purpose other than chemical dependency treatment. The medical review agent shall follow the Appropriateness Evaluation Protocol **and Effective Care '84 Criteria for Residential Chemical Dependency Treatment** and Criteria for Inpatient Psychiatric Treatment of Blue Cross and Blue Shield of Minnesota in determining whether a recipient's admission is medically necessary, whether the inpatient hospital services provided to the recipient were medically necessary, whether the recipient's continued stay will be medically necessary, and whether all medically necessary inpatient hospital services were provided to the recipient.

Subp. 2. Determination for admission for chemical dependency treatment. The assessment of a recipient's need for chemical dependency treatment in a hospital shall be made according to parts 9530.6600 to 9530.6655. The person who conducted the assessment shall contact the medical review agent and request a certification number. If the person who conducted the assessment reports that the recipient meets the criteria for chemical dependency treatment in a hospital, the medical review agent shall issue a certification number

The modification will make the two rules consistent with each other and will remove possible confusion and duplicated effort. The department finds the modification is not a substantial change.

The adoption of this modification will require further amendments in order to clarify the procedures and responsibilities established in parts 9505.0520 and 9505.0530 in regard to hospital admission for chemical

dependency treatment. The modifications are as follows

Part 9505.0520, Subp. 3. Admitting physician responsibilities. The admitting physician who seeks medical assistance or general assistance medical care program payment for an inpatient hospital service to be provided to a recipient for a purpose other than chemical dependency treatment shall: [Remainder of the subpart unchanged.]

This modification clarifies that the admitting physician is not responsible under parts 9505.0500 to 9505.0540 in regard to recipients who are seeking hospital admission for chemical dependency treatment. The modification is consistent with part 9505.0540 and with parts 9530.6600 to 9530.6655. The modification is not substantial and clarifies the rule.

Part 9505.0520, Subp. 4. Hospital responsibilities. A hospital that seeks medical assistance or general assistance medical care program payment for inpatient hospital services provided to a recipient shall:
A. Obtain ~~from the admitting physician~~ the certification number from the admitting physician or, for an admission for chemical dependency treatment, from the person who conducted the assessment of the recipient for chemical dependency treatment as specified in parts 9530.6600 to 9530.6655.
Items B to C. [Unchanged.]

This modification clarifies from whom the hospital must obtain the certification number. It is consistent with requirements about who must contact the medical review agent. The modification is consistent with part 9505.0540 and parts 9530.6600 to 9530.6655. It is not substantial.

Part 9505.0520, Subp. 6. Medical review agent responsibilities. The medical review agent shall:
Items A to J. [Unchanged.]
K. issue a certification number for a recipient whose condition requires chemical dependency treatment in a hospital as indicated in an assessment made according to parts 9530.6600 to 9530.6655.

This modification clarifies a responsibility of the medical review agent. It is consistent with the requirements of part 9505.0540 and parts 9530.6600 to 9530.6655. It is not substantial.
If this modification is adopted, the following rule style modifications will be necessary:
In item I, after "holidays;", delete "and".
In item J, after "certification", delete "." and insert "; and"
These modifications do not affect the rule's substance.

The modifications of the above captioned rule are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as parts 9505.0500 to 9505.0540 (as modified) is adopted this 12th day of February, 1987, pursuant to authority vested in me by Minnesota Statutes, sections 256B.503 and 256D.03, subd. 7(b).

for

SANDRA S. GARDEBRING
COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed
Adoption of Amendments to
Minnesota Rules, parts 9505.0500 to
9505.0540, Governing Inpatient Hospital
Admission Certification in the Medical
Assistance Program.

STATEMENT OF NEED
AND REASONABLENESS

Minnesota Rules, parts 9505.0500 to 9505.0540 establish a system for reviewing the utilization of inpatient hospital care for hospitals which participate in the Medical Assistance (MA) or General Assistance Medical Care (GMAC) programs. As required by Minnesota Statutes, section 256B.04, subd.15, this utilization review system is designed to safeguard against the "unnecesssary or inappropriate hospital admissions or lengths of stay, and against against underutilization of services in.....any health care delivery system subject to fixed rate reimbursement." Furthermore, the statute requires the department to use "both prepayment and postpayment review systems to determine if utilization is reasonable and necessary. Thus these rules are designed to guard against excess payments and to reduce expenditures which result from inappropriate hopsitalization of medical assistance and general assistance medical care recipients. The statutory authority for these rules is found in Minnesota Statutes, sections 256B.503 and 256D.03, subd.7(b). The rules were adopted in April 1985.

Since adopting these rules, the department has identified several areas of the rules that need to be amended. The need for these amendments arises from inconsistency with related rules, timeliness requirements that allow

insufficient time to complete necessary procedural steps, the failure of physicians to submit information prior to admission of recipients, confusion about the patient's medical assistance eligibility status and insurance coverage, confusion about who may appeal the determination of the physician advisers, and the absence of criteria for inpatient psychiatric and chemical dependency treatment.

To advise the department concerning amendments to address these concerns, the department convened an advisory committee. (See appendix A for committee membership.) The committee met on April 2, 1986 and reviewed amendments proposed by the department. Members of the committee supported the department's desire to address these concerns and the proposed amendments.

Part 9505.0500, Subp. 3. Admission certification. This amendment is necessary and reasonable because the cited emergency rule has been superseded by a permanent rule, parts 9505.5000 to 9505.5105.

Part 9505.0500, Subp. 24. Readmission. The amendment is necessary and reasonable to achieve consistency with the department's review mechanism which is based on the lapsed time between a discharge and a readmission. The department's experience during the last year has been that the time limitation of seven days is sufficient to ensure the medical necessity of a previously discharged patient's return to the hospital as an inpatient. Therefore, the department proposes the deletion of the requirement that the inpatient hospital service be "for the same diagnosis or a related condition or the treatment of a condition which grew out of the previous diagnosis".

Part 9505.0510 APPLICABILITY. This amendment is necessary and reasonable because the cited emergency rule has been superseded by a permanent rule, parts 9505.5000 to 9505.5105.

Part 9505.0520, Subp. 6, item I. This amendment proposes to extend the period within which the required written notice concerning a reconsideration decision must be mailed. Experience in the last year has shown that five days is too short a time always to complete all work required to prepare and send the written notice. For example, if the reconsideration is requested under subpart 9, the result of the reconsideration must be phoned to the admitting physician and the person responsible for the hospital's utilization review within 24 hours. However, the requirement of mailing the written notice of the reconsideration decision within five days does not allow enough time to complete necessary paperwork. Extension of the notice mailing time from five to ten days has been accepted by the advisory committee and by the medical review agent as reasonable because it balances allowing sufficient time to complete a required procedure and the need of the hospital and admitting physician to receive confirmation of the phoned message as soon as possible in order to prevent a possible misunderstanding of the decision. The required procedure thus has the time necessary to permit the physicians who made the decision to compare the written summary prepared by the medical review agent to the physicians' decision. Thus the extension of time strengthens the procedure by ensuring consistency between the comments and decision of the physicians and the written notice of the medical review agent.

Part 9505.0520, Subp. 6, item J. This proposed item amends the rule to permit consideration of a request for retroactive admission certification. As stated in the introduction, Minnesota Statutes, section 256B.04, subd.15, which requires the department to establish a program to guard against unnecessary or inappropriate hospital admissions or lengths of stay, also requires department to use "both prepayment and postpayment

systems to determine if utilization is reasonable and necessary." Thus the amendment is consistent with statute as a retroactive request foradmission certification would only be the first step necessary to prepare a claim for payment and thus would be part of a prepayment system. The purposes of parts 9505.0500 to 9505.0540 are to guard against unnecessary use of inpatient hospital service, avoid excess payments, and reduce expenditures which result from inappropriate hospitalization. Thus, the required review can be either preadmission or postadmission as long as the outcome is consistent with the statutory requirement. These rules focus on the medical necessity of the admission, the services provided in the hospital, and the length of stay. Several examples show clearly that admissions that were medically necessary were denied admission certification because rule requirements related to timeliness precluded a retroactive certification based on medical necessity. In the first example, a hospital referred a patient who required cardiology consultation before an elective surgery for gallstones to a hospital where the consultation was available but the referring hospital incorrectly reported the patient's MA status to the second hospital. The second hospital attempted to verify the patient's MA status before the patient's admission but was unable to reach the patient because the patient did not have a phone. The patient's MA status was clarified after his admission and the second hospital requested admission certification. The medical review agent denied the certification because "the call for this elective surgery was received after the admission occurred." Admission certification was denied for a patient undergoing a total knee arthoplasty on the left because of a breakdown in communication between the hospital and the admitting physician concerning the MA status of a patient admitted on a Sunday. In a third example, prior authorization and a second opinion

approving the surgery (a hysterectomy) were obtained but admission certification was denied because the request for admission certification of the elective procedure was received after the patient was admitted tothe hospital. Another example occurs when a recipient does not give either the admitting physician or the hospital accurate information about his or her medical assistance eligibility status and thus the admitting physician and the hospital do not believe that admission certification is necessary. Therefore, it is necessary and reasonable to provide a method to ensure medically necessary admissions are not denied admission certification and to ensure that medically necessary hospital services and lengths of stay are not ineligible for medical assistance payment because the admitting physician failed to request admission certification before the recipient's admission. If this amendment is adopted, two technical amendments are necessary: in item H, after "holidays;", delete "and"; in item I, after "holidays", delete "." and insert "; and".

Part 9505.0520, Subp. 9. Reconsideration. This amendment is necessary to clarify who has a right to appeal the determination of the physician advisers according to the contested case provisions of Minnesota Statutes, chapter 14. The amendment is consistent with Minnesota Statutes, section 256B.04, subd. 15 which permits an aggrieved party to appeal pursuant to the contested case procedures of Minnesota Statutes, chapter 14. The aggrieved parties in parts 9505.0500 to 9505.0540 are the admitting physician and the hospital. The clarification is reasonable because it removes confusion about who may appeal.

Part 9505.0520, Subp. 14. Retroactive admission certification. This amendment is necessary to establish a standard method of requesting a

retroactive admission certification. Because services specified under subpart 2 are exempt from the requirement of admission certification before the person's admission to the hospital, it is reasonable to clarify that they are also exempt from having to apply for retroactive certification. Because the decision of granting or denying certification must be based on the medical necessity of the admission and the inpatient hospital services, the medical review agent needs information about the person's medical condition, diagnosis, and treatment. Requiring the admitting physician to submit the person's complete medical record is reasonable because this record customarily has all the information about the person's condition, diagnosis, and treatment. Furthermore, requiring the admitting physician to submit the record at his or her own expense is reasonable because such an expense will encourage physicians to request certification before a person's admission whenever possible in order to avoid the expense of duplicating the complete medical record. A physician who needs a medical record to request retroactive admission certification must request the hospital to duplicate it as the hospital controls the use of the medical records of its patients. Therefore, this provision will assist hospitals to identify physicians who have a pattern of failing to comply with admission certification requirements before hospital admission and thus to pressure the physician to comply before the admission. Additionally, limiting the period for submmitting the record after the person's discharge is necessary because it facilitates obtaining any additional information required in deciding the certification request. Thirty days is a reasonable limit because this period is customarily used in business. Thirty days was acceptable to the advisory committee. It is necessary to clarify the procedure that must be followed when requesting retroactive admission certification. It is reasonable to require use of

the procedure applicable to a request made before admission because using the same procedure will ensure the appropriate reviews and enable affected persons to use a familiar procedure. Providing for reconsideration and appeal of denials and withdrawals of retroactive admission certification is consistent with Minnesota Statutes, section 256B.04, subd. 15.

Finally, the department calls attention to the difference between retroactive eligibility for medical assistance and retroactive admission certification. Retroactive admission certification does not affect a recipient's eligibility status in any way. Retroactive admission certification does affect the eligibility of hospital services to be reimbursed by medical assistance or general assistance medical care. However, retroactive eligibility under subpart 5 allows for admission certification for persons who are retroactively granted medical assistance or general assistance medical care eligibility. (See 42 CFR 435.914.) There may be instances in which a person is admitted, treated, and discharged from a hospital before that MA or GAMC is retroactively granted.

If this amendment is adopted, it is necessary to amend subpart 1 to achieve consistency of subparts 1 and 14. The amendments of subpart 1 are: after, "Except as provided in" revise "subpart" to "subparts" and after "2", insert "and 14".

Part 9505.0530 INCORPORATION BY REFERENCE OF CRITERIA TO DETERMINE MEDICAL NECESSITY.

and

Part 9505.0540 CRITERIA TO DETERMINE MEDICAL NECESSITY.

Amending these parts to include criteria for inpatient psychiatric and chemical dependency treatment is necessary because the criteria for these two services on an inpatient basis are not included in the Appropriateness

Evaluation Protocol of the National Institutes of Health (AEP) that is now used with medical and surgical admissions. Criteria for these conditions are necessary to provide a uniform standard for determining medical necessity. The ones chosen are the ones developed by the present medical review agent, Blue Cross and Blue Shield of Minnesota. Members of the advisory committee reported that these criteria are in general use by the health service professions. The committee agreed their use is reasonable.

EXPERT WITNESSES AT PUBLIC HEARING

If a public hearing is held on these amendments, the department will not use expert witnesses from outside the department to testify at the hearing.

Dated: 10/14/, 1986



LEONARD W. LEVINE

Commissioner

Minnesota Department of Human Services

APPENDIX A

April 2, 1986

DEPARTMENT OF HUMAN SERVICES

ADVISORY COMMITTEE
on
AMENDMENTS TO PARTS 9505.0500 to 9505.0540

Dr. Lee Beecher, Suite 121, Creekside Professional Building, 6600 Excelsior Blvd., St. Louis Park, MN 55426

Ms. Deborah Glass, Minnesota Medical Association, 2221 University S.E., Minneapolis, MN 55414

Ms. Marcie Jefferys, Minnesota Hospital Association, 2221 University S.E., Minneapolis, MN 55414

Mr. Richard Peterson, North Memorial Hospital, 3300 Oakdale No., Robbinsdale, MN 55422

Ms. Linda Roe, Blue Cross and Blue Shield of Minnesota (under contract with the department as the medical review agent), 3535 Blue Cross Road, Eagan MN 55121

The determinant of certification should be the medical necessity of inpatient treatment, not restrictive time parameters. Refusing to pay for medically appropriate care, simply because the review agent wasn't called in advance, is unreasonable when the review agent is only available 40 hours a week.

Overly-restrictive procedures penalize the patients ultimately, as admissions may have to be delayed in order to comply with the letter of the law. We feel that a more reasonable approach will not dilute the effectiveness of the screening program, but would instead foster a more cooperative effort among all parties concerned.

Thank you for allowing our input on the proposed changes.

Sincerely,

Donna Anderson

Donna Anderson
Assistant Finance Director/Director of Admissions

DMA/dks

cc: Dan Rode, UMHC

Department of Human Services

Proposed Permanent Rules Relating to Hospital Admission Certification

Rules as Proposed

9505.0500 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Admission certification.** "Admission certification" means the determination of the medical review agent that inpatient hospitalization is medically necessary and that medical assistance or general assistance medical care funds may be used to pay the admitting physician, hospital, and other vendors of inpatient hospital services for providing medically necessary services, subject to parts 9500.0750 to 9500.1080, 9505.1000 to 9505.1040, and 9505.5000 to ~~9505.5020 [Emergency], and 9505.1000 to 9505.1040~~ 9505.5105.

Subp. 4. to 23. [Unchanged.]

Subp. 24. **Readmission.** "Readmission" means an admission ~~for an inpatient hospital service for the same diagnosis or a related condition or the treatment of a condition which grew out of the previous diagnosis which~~ that occurs within seven days of a ~~prior~~ discharge of the same recipient ~~from a hospital~~.

Subp. 25. to 27. [Unchanged.]

9505.0510 APPLICABILITY.

Parts 9505.0500 to 9505.0540 establish the standards and procedures for admission certification to be followed by admitting physicians and hospitals seeking medical assistance or general assistance medical care payment for inpatient hospital services provided to medical assistance or general assistance medical care recipients under Minnesota Statutes, chapters 256B and 256D. Parts 9505.0500 to 9505.0540 are to be read in conjunction with Code of Federal Regulations, title 42, and titles XVIII and XIX of the Social Security Act. The department retains the authority to approve prior authorizations

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established under parts 9505.5000 to ~~9505.5020~~ ~~[Emergency]~~ 9505.5105. Parts 9505.0500 to 9505.0540 do not apply to out-of-state hospitals and admitting physicians who seek medical assistance or general assistance medical care program payment for inpatient hospital services provided to recipients who are Minnesota residents. Instate admitting physicians who admit a Minnesota resident who is a recipient to an out-of-state hospital must comply with parts 9505.0500 to 9505.0540. Out-of-state admitting physicians who admit a Minnesota resident who is a recipient to an in-state hospital must comply with parts 9505.0500 to 9505.0540.

9505.0520 INPATIENT ADMISSION CERTIFICATION.

Subpart 1. **Requirement for admission certification.** Except as provided in ~~subpart~~ subparts 2 and 14, an admission providing inpatient hospital service to a recipient must receive admission certification prior to the recipient's admission in order for the admitting physician, the hospital, or other vendor of an inpatient hospital service to receive medical assistance or general assistance medical care program payment for the inpatient hospital service.

Subp. 2. to 5. [Unchanged.]

Subp. 6. **Medical review agent responsibilities.** The medical review agent shall:

A. to G. [Unchanged.]

H. notify the admitting physician and the person responsible for the hospital's utilization review, by phone, of a reconsideration decision within 24 hours of the decision, exclusive of weekends and holidays; ~~and~~

I. mail a written notice of the reconsideration decision to the admitting physician, the person responsible for the hospital's utilization review, and the department within ~~five~~ ten days of the determination, exclusive of weekends and holidays; and

J. provide for consideration of a request for retroactive admission certification.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Subp. 7. and 8. [Unchanged.]

Subp. 9. **Reconsideration.** The admitting physician or the hospital may request reconsideration of a decision to deny or withdraw an admission certification. The admitting physician or the hospital shall submit the request in writing to the medical review agent within 30 days of the date of receipt of the letter denying or withdrawing admission certification. Upon receipt of the request, the medical review agent shall appoint at least three physician advisers, none of whom shall have been involved previously in the procedure for the recipient's admission certification, to hear the reconsideration. The reconsideration may be conducted by means of a telephone conference call. The admitting physician or the hospital may submit additional facts at their own expense to support the request for admission certification. The physician advisers may seek additional facts and medical advice as necessary to decide whether the admission is medically necessary. The reconsideration shall be completed within 30 days of the receipt of the request. ~~Any party~~ The admitting physician or the hospital may appeal the determination of the physician advisers according to the contested case provisions of Minnesota Statutes, chapter 14, by filing a written notice of appeal with the commissioner within 20 days of the date of receipt of the notice of the determination.

Subp. 10. to 13. [Unchanged.]

Subp. 14. **Retroactive admission certification.** If the admitting physician fails to request admission certification by contacting the medical review agent prior to an admission for an inpatient hospital service other than a service under subpart 2, the admitting physician may retroactively request admission certification. The admitting physician shall submit at his or her own expense the recipient's complete medical record to the medical review agent within 30 days of the recipient's discharge. The medical record must contain the information required in subpart 3, items B and C, and any other facts necessary to establish that the recipient's admission was medically necessary. The procedure outlined in subpart 8 shall

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

also be followed in the case of retroactive admission certification. The denial of retroactive admission certification and the withdrawal of retroactive admission certification may be appealed to the medical review agent through the reconsideration process in subpart 9.

9505.0530 ~~ADOPTION OF THE APPROPRIATENESS EVALUATION PROTOCOL~~ INCORPORATION BY REFERENCE OF CRITERIA TO DETERMINE MEDICAL NECESSITY.

The most recent edition of the Appropriateness Evaluation Protocol of the National Institutes of Health is incorporated by reference. The book is available at the Health Data Institute, 7 Wells Avenue, Newton, Massachusetts, 02159, and it is also available through the Minitex interlibrary loan system. The book is subject to change.

The Effective Care '81 Criteria for Residential Chemical Dependency Treatment, 1983 edition, and the Criteria for Inpatient Psychiatric Treatment, 1981 edition, published by Blue Cross and Blue Shield of Minnesota are incorporated by reference. The criteria are available at Blue Cross and Blue Shield of Minnesota, P.O. Box 64560, Saint Paul, Minnesota 55164, and at the state law library, Ford Building, Saint Paul, Minnesota 55155. The criteria are not subject to frequent change.

9505.0540 CRITERIA TO DETERMINE MEDICAL NECESSITY.

The medical review agent shall follow the Appropriateness Evaluation Protocol and Effective Care '81 Criteria for Residential Chemical Dependency Treatment and Criteria for Inpatient Psychiatric Treatment of Blue Cross and Blue Shield of Minnesota in determining whether a recipient's admission is medically necessary, whether the inpatient hospital services provided to the recipient were medically necessary, whether the recipient's continued stay will be medically necessary, and whether all medically necessary inpatient hospital services were provided to the recipient.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Hospital Admission Certification

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9505

Incorporation by Reference

Part 9505.0530 The Effective Care '81 Criteria for Residential Chemical Dependency Treatment, 1983 edition, published by Blue Cross and Blue Shield of Minnesota.

Criteria for Inpatient Psychiatric Treatment, 1981 edition, published by Blue Cross and Blue Shield of Minnesota.

The attached rules are approved for publication in the State Register

APPROVED AS TO FORM AND LEGALITY
2/23 19 87
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
ASSISTANT ATTORNEY GENERAL

Susan Quayle
Susan E. Quayle
Assistant Revisor

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Rules of the State Department of Human Services Governing Hospital Admission Certification, Minnesota Rules, Parts 9505.0500 to 9505.0540

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 256B.503 and 256D.03, subdivision 7 (b).

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON January 15, 1987, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 8, 1987 and January 14, 1987 at (612) 297 4301.

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

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on January 7, 1987.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.[8]

A free copy of this rule is available upon request for your review from:

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The proposed amendments to the rule have the following effects: clarification of the definition of "readmission" in part 9505.0500, subpart 24; provision for a request for retroactive admission certification in part 9505.0520, subpart 14; establishment of criteria for determination of the medical necessity of residential chemical dependency treatment and inpatient psychiatric treatment; clarification of parties who may appeal. In addition several technical amendments are proposed that do not change the substance of the rule.[11]

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Eleanor Weber upon request.[12]

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.[13] A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Eleanor Weber.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.[9] Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber.

STATE OF MINNESOTA

LEONARD W. LEVINE, COMMISSIONER
Department of Human Services

Dated: 11-14-86

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENT OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING HOSPITAL ADMISSION CERTIFICATION, MINNESOTA RULES, PARTS 9505.0500 TO 9505.0540

AFFIDAVIT OF MAILING

Nancy Storelee, being first duly sworn, deposes and says:

That on the 3rd day of December, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notices by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to 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 hearing by this Department.

Nancy Storelee

Subscribed and sworn to before me

this 3rd day of December, 1986

Louise J. Buckel



STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Rules of the State Department of Human Services Governing Hospital Admission Certification, Minnesota Rules, Parts 9505.0500 to 9505.0540	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 256B.503 and 256D.03, subdivision 7 (b).

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON January 15, 1987, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 8, 1987 and January 14, 1987 at (612) 297 4301.

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

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on January 7, 1987.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from:

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The proposed amendments to the rule have the following effects: clarification of the definition of "readmission" in part 9505.0500, subpart 24; provision for a request for retroactive admission certification in part 9505.0520, subpart 14; establishment of criteria for determination of the medical necessity of residential chemical dependency treatment and inpatient psychiatric treatment; clarification of parties who may appeal. In addition several technical amendments are proposed that do not change the substance of the rule.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Eleanor Weber upon request.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Eleanor Weber.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber.

STATE OF MINNESOTA



LEONARD W. LEVINE, COMMISSIONER
Department of Human Services

Dated: 11-14-86

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Governing Hospital Admission Certification, Minnesota Rules, parts 9505.0500 to 9505.0540

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, Room D, Fifth Floor, 20 West 12 Street and Columbus Avenue, St. Paul, Minnesota 55155 on January 15, 1987 commencing at 10:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 8, 1987 and January 14, 1987 at (612) 297 4301.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Allan Klein, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7609, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted

during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Parts 9505.0500 to 9505.0540 establish the procedure and criteria for determining the medical necessity of inpatient hospital services to recipients of medical assistance and general assistance medical care. The proposed amendments clarify the definition of readmission, authorize retroactive admission certification, clarify parties who may appeal, and establish criteria for determining the medical necessity of residential chemical dependency treatment and inpatient psychiatric treatment. Additionally, the proposed amendments make technical corrections that do not affect the substance of the rules.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256B.503 and 256D.03, subdivision 7 (b). Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services.
444 Lafayette Road
St. Paul, MN 55101

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services.
444 Lafayette Road
St. Paul, MN 55101

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Eleanor Weber, (612) 297 4301.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the

rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert, St. Paul, Minnesota, 55101, telephone (612) 296-5615.

STATE OF MINNESOTA



Dated: 11-14-86

LEONARD W. LEVINE, COMMISSIONER
Department of Human Services

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENT OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING HOSPITAL ADMISSION CERTIFICATION, MINNESOTA RULES, PARTS 9505.0500 TO 9505.0540

AFFIDAVIT OF ADDITIONAL MAILING

Nancy Storelee, being first duly sworn, deposes and says:

That on the 3rd day of December, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notices 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 parties:

.The 87 Minnesota County Human Services Agencies
.Others requesting notice

Nancy Storelee

Subscribed and sworn to before me

this 3rd day of December, 1986

Louise G. Berdil

Subp. 4. **Dispositions.** At the conclusion of an investigation or audit or after a hearing if a hearing has been ordered, the board shall take the action in item A or B or both of those actions.

A. The board may make a finding that there is or is not probable cause to conclude that a violation of Minnesota Statutes, chapter 10A has occurred. The board shall report any finding of probable cause to the appropriate law enforcement authorities.

B. The board may authorize the commencement of a civil action for injunctive or other appropriate relief.

Subp. 5. **Board meetings.** Board meetings related to an investigation or audit must be conducted in accordance with part 4525.0200, subparts 3 to 6.

REPEALER. Parts 4500.1300; 4500.3100, subpart 6; 4525.0300; 4525.0400; 4525.0600; 4525.0700; and 4525.0800 are repealed.

Department of Human Services

Proposed Permanent Rules Relating to Hospital Admission Certification

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-Five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 256B.503 and 256D.03, subdivision 7 (b).

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from:

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The proposed amendments to the rule have the following effects: clarification of the definition of "readmission" in part 9505.0500, subpart 24; provision for a request for retroactive admission certification in part 9505.0520, subpart 14; establishment of criteria for determination of the medical necessity of residential chemical dependency treatment and inpatient psychiatric treatment; clarification of parties who may appeal. In addition several technical amendments are proposed that do not change the substance of the rule.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Eleanor Weber upon request.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY

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.

COMMENT PERIOD, A HEARING WILL BE HELD ON January 15, 1987, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 8, 1987 and January 14, 1987 at (612) 297-4301.

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

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on January 7, 1987.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Eleanor Weber.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber.

Leonard W. Levine, Commissioner
Department of Human Services

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, Room D, Fifth Floor, 20 West 12 Street and Columbus Avenue, St. Paul, Minnesota 55155 on January 15, 1987 commencing at 10:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 8, 1987 and January 14, 1987 at (612) 297-4301.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Allan Klein, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7609, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period should be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Parts 9505.0500 to 9505.0540 establish the procedure and criteria for determining the medical necessity of inpatient hospital services to recipients of medical assistance and general assistance medical care. The proposed amendments clarify the definition of readmission, authorize retroactive admission certification, clarify parties who may appeal, and establish criteria for determining

the medical necessity of residential chemical dependency treatment and inpatient psychiatric treatment. Additionally, the proposed amendments make technical corrections that do not affect the substance of the rules.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256B.503 and 256D.03, subdivision 7 (b). Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from:

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Eleanor Weber, (612) 297-4301.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota, 55101, telephone (612) 296-5615.

Leonard W. Levine, Commissioner
Department of Human Services

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Rules as Proposed

9505.0500 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Admission certification.** "Admission certification" means the determination of the medical review agent that inpatient hospitalization is medically necessary and that medical assistance or general assistance medical care funds may be used to pay the admitting physician, hospital, and other vendors of inpatient hospital services for providing medically necessary services, subject to parts 9500.0750 to 9500.1080, 9505.1000 to 9505.1040, and 9505.5000 to ~~9505.5020 [Emergency], and 9505.1000 to 9505.1040~~ 9505.5105.

Subp. 4. to 23. [Unchanged.]

Subp. 24. **Readmission.** "Readmission" means an admission ~~for an inpatient hospital service for the same diagnosis or a related condition or the treatment of a condition which grew out of the previous diagnosis which~~ that occurs within seven days of a ~~prior~~ discharge of the same recipient ~~from a hospital~~.

Subp. 25. to 27. [Unchanged.]

9505.0510 APPLICABILITY.

Parts 9505.0500 to 9505.0540 establish the standards and procedures for admission certification to be followed by admitting physicians and hospitals seeking medical assistance or general assistance medical care payment for inpatient hospital services provided to medical assistance or general assistance medical care recipients under Minnesota Statutes, chapters 256B and 256D. Parts 9505.0500 to 9505.0540 are to be read in conjunction with Code of Federal Regulations, title 42, and titles XVIII and XIX of the Social Security Act. The department retains the authority to approve prior authorizations established under parts 9505.5000 to ~~9505.5020 [Emergency]~~ 9505.5105. Parts 9505.0500 to 9505.0540 do not apply to out-of-state hospitals and admitting physicians who seek medical assistance or general assistance medical care program payment for inpatient hospital services provided to recipients who are Minnesota residents. Instate admitting physicians who admit a Minnesota resident who is a recipient to an out-of-state hospital must comply with parts 9505.0500 to 9505.0540. Out-of-state admitting physicians who admit a Minnesota resident who is a recipient to an in-state hospital must comply with parts 9505.0500 to 9505.0540.

9505.0520 INPATIENT ADMISSION CERTIFICATION.

Subpart 1. **Requirement for admission certification.** Except as provided in ~~subpart~~ subparts 2 and 14, an admission providing inpatient hospital service to a recipient must receive admission certification prior to the recipient's admission in order for the admitting physician, the hospital, or other vendor of an inpatient hospital service to receive medical assistance or general assistance medical care program payment for the inpatient hospital service.

Subp. 2. to 5. [Unchanged.]

Subp. 6. **Medical review agent responsibilities.** The medical review agent shall:

A. to G. [Unchanged.]

H. notify the admitting physician and the person responsible for the hospital's utilization review, by phone, of a reconsideration decision within 24 hours of the decision, exclusive of weekends and holidays; ~~and~~

I. mail a written notice of the reconsideration decision to the admitting physician, the person responsible for the hospital's utilization review, and the department within ~~five~~ ten days of the determination, exclusive of weekends and holidays; and

J. provide for consideration of a request for retroactive admission certification.

Subp. 7. and 8. [Unchanged.]

Subp. 9. **Reconsideration.** The admitting physician or the hospital may request reconsideration of a decision to deny or withdraw an admission certification. The admitting physician or the hospital shall submit the request in writing to the medical review agent within 30 days of the date of receipt of the letter denying or withdrawing admission certification. Upon receipt of the request, the medical review agent shall appoint at least three physician advisers, none of whom shall have been involved previously in the procedure for the recipient's admission certification, to hear the reconsideration. The reconsideration may be conducted by means of a telephone conference call. The admitting physician or the hospital may submit additional facts at their own expense to support the request for admission certification. The physician advisers may seek additional facts and medical advice as necessary to decide whether the admission is medically necessary. The reconsideration shall be completed within 30 days of the receipt of the request. ~~Any party~~ The admitting physician or the hospital may appeal the determination of the physician advisers according to the contested case provisions of Minnesota Statutes, chapter 14, by filing a written notice of appeal with the commissioner within 20 days of the date of receipt of the notice of the determination.

Subp. 10. to 13. [Unchanged.]

Subp. 14. **Retroactive admission certification.** If the admitting physician fails to request admission certification by contacting the medical review agent prior to an admission for an inpatient hospital service other than a service under subpart 2, the admitting physician may retroactively request admission certification. The admitting physician shall submit at his or her own expense the recipient's complete medical record to the medical review agent within 30 days of the recipient's discharge. The medical record must contain the information required in subpart 3, items B and C, and any other facts necessary to establish that the recipient's admission was medically necessary. The procedure outlined in subpart 8 shall also be followed in the case of retroactive admission certification. The denial of retroactive admission certification and the withdrawal of retroactive admission certification may be appealed to the medical review agent through the reconsideration process in subpart 9.

9505.0530 ~~ADOPTION OF THE APPROPRIATENESS EVALUATION PROTOCOL~~ INCORPORATION BY REFERENCE OF CRITERIA TO DETERMINE MEDICAL NECESSITY.

The most recent edition of the Appropriateness Evaluation Protocol of the National Institutes of Health is incorporated by reference. The book is available at the Health Data Institute, 7 Wells Avenue, Newton, Massachusetts, 02159, and it is also available through the Minitex interlibrary loan system. The book is subject to change.

The Effective Care '81 Criteria for Residential Chemical Dependency Treatment, 1983 edition, and the Criteria for Inpatient Psychiatric Treatment, 1981 edition, published by Blue Cross and Blue Shield of Minnesota are incorporated by reference. The criteria are available at Blue Cross and Blue Shield of Minnesota, P.O. Box 64560, Saint Paul, Minnesota 55164, and at the state law library, Ford Building, Saint Paul, Minnesota 55155. The criteria are not subject to frequent change.

9505.0540 CRITERIA TO DETERMINE MEDICAL NECESSITY.

The medical review agent shall follow the Appropriateness Evaluation Protocol and Effective Care '81 Criteria for Residential Chemical Dependency Treatment and Criteria for Inpatient Psychiatric Treatment of Blue Cross and Blue Shield of Minnesota in determining whether a recipient's admission is medically necessary, whether the inpatient hospital services provided to the recipient were medically necessary, whether the recipient's continued stay will be medically necessary, and whether all medically necessary inpatient hospital services were provided to the recipient.

Minnesota Board of Teaching

Proposed Permanent Rules Relating to Teaching Licenses; Continuing Education and Miscellaneous Others

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Board of Teaching intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, section 14.22 to 14.28. The statutory authority to adopt the rules is Minnesota Statutes, section 125.05, subd. 1, and subd. 6, and 125.185, subd. 4.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
444 LAFAYETTE ROAD
ST. PAUL, MINNESOTA 55101

January 13, 1987

Cynthia J. Smith, Program Supervisor
Chrysalis
2104 Stevens Avenue South
Minneapolis, Mn. 55404

Dear Cynthia,

Thank you for your letter of January 6.

At this time the rules governing chemical use assessments and the proposed criteria for chemical dependency residential treatment under the medical assistance program are inconsistent. With the new rules on chemical use assessments effective for barely a week, this inconsistency is causing confusion. I will attempt to clarify the situation and the department's plans to bring these rules in line with each other. Please feel free to refer other providers to me if they need clarification of the assessment and criteria.

While Minnesota Rules, parts 9530.6600 to 9530.6655, were effective January 1, 1987, they contain no enforcement provisions or penalties. However, amendments are being proposed to Minnesota Rules, parts 9505.0500 to 9505.0540 which will specify the criteria used by the Department's medical review agent to determine whether a patient's hospital admission for chencial dependency treatment is medically necessary. It is these amendments which will be modified so that the medical review agent assures that the patient's symptoms meet the provisions of Minnesota Rules, parts 9530.6600 to 9530.6655. After the medical review agent is so assured, a certification number will be issued and the care of a medical assistance eligible patient will be paid by medical assistance. Thus, there will be one set of criteria and one determination of need for admission for chemical dependency treatment. The department anticipates that the proposed amendments to parts 9505.0500 to 9505.0540 will become effective in mid-March. Therefore, until the proposed rules become effective, residential chemical dependency treatment facilities will continue to obtain certification of new admissions by the state's medical review agent in order to obtain reimbursement from medical assistance.

The department will be informing the counties and the providers of the effective date of the rule change as soon as it is known to us. We plan to issue an informational bulletin at least a month in advance so that everyone has time to prepare.

If I can be of further help, please contact me at 296-8574.

Sincerely,

Lee

Lee Gartner
Program Consultant
Chemical Dependency Program Division

CHRYSALIS

2104 STEVENS AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55404
(612) 871-0118

JAN 1987
RULES UNIT

January 6, 1987

Lee Gartner
Chemical Dependency
Program Division
Space Center Bldg.
St. Paul, Minnesota

Dear Lee:

Within the past days a number of questions regarding the new Rule 25 guidelines have been addressed to me and the Chrysalis staff. I would like to thank you, Lee, for your help in sorting through many of them and providing me with helpful answers.

Regarding Medical Assistance placements in residential treatment centers, I am requesting some further clarification. Can you determine at this time, how M.A. authorizations and certifications are to be made? Should Chrysalis inform treatment centers that they should continue to receive authorization through Blue Cross-Blue Shield or now through a county designee? In addition, who approves continued length of stay? Should we be telling treatment centers to discontinue "walk-in" admissions of MA or GA recipients?

Thank you for your assistance. Please let me know the outcome regarding my questions.

Sincerely,

Cynthia J. Smith

Cynthia J. Smith
Program Supervisor

CJS/kmb

(CD5.6)

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
CENTENNIAL OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

INFORMATIONAL BULLETIN #86-51F

December 15, 1986

TO: Chairperson, Board of County Commissioners
Attention: Director

Chairperson, Human Service Board
Attention: Director

Chemical Dependency Treatment Programs
Attention: Director

County Court Services Departments
Attention: Director

Community Mental Health Centers
Attention: Director

SUBJECT: Chemical Use Assessments: Adoption of Permanent Minnesota Rules, Parts 9530.6600 to 9530.6655

I. Purpose

The Department of Human Services has adopted permanent rules implementing chemical use assessment requirements and placement criteria for chemical abuse or dependency treatment as provided for in Minnesota Statutes, Chapter 254A.03. The purpose of this bulletin is to distribute copies of the adopted rules to the local agencies.

II. Distribution

Attached is a copy of Minnesota Rules, Parts 9530.6600 to 9530.6655, which are effective January 1, 1987. One copy is being provided to each agency. If additional copies are needed contact Jodey Larson, Chemical Dependency Program Division, 444 Lafayette Road, St. Paul, MN, 55155, (612) 296-3991.

III. Contact Persons

If you have any questions about these rules, please contact:

Lee Gartner or Phil Brekken
Chemical Dependency Program Division
444 Lafayette Road
St. Paul, MN 55155
(612) 296-8574

Sincerely,

Margaret Sandberg
Assistant Commissioner

AN EQUAL OPPORTUNITY EMPLOYER

DHS-825
(6-84)

9530.6600 CHEMICAL DEPENDENCY CARE FOR PUBLIC ASSISTANCE RECIPIENTS; GENERAL PROVISIONS.

Subpart 1. **Applicability.** Parts 9530.6600 to 9530.6655 establish criteria that counties shall apply to determine the appropriate level of chemical dependency care for a client seeking treatment for chemical dependency and abuse problems which requires the expenditure of public funds for treatment. Parts 9530.6600 to 9530.6655 do not apply to court commitments under Minnesota Statutes, chapter 253B, or section 526.10.

Subp. 2. **Programs governed.** Parts 9530.6600 to 9530.6655 apply to counties and chemical dependency or abuse treatment programs licensed to provide chemical dependency or chemical abuse related services under parts 9530.2500 to 9530.4000, and 9530.5000 to 9530.6500, or similar programs located in acute care hospitals.

Subp. 3. **Funding sources governed.** All financial resources allocated for chemical abusing or dependent individuals under Minnesota Statutes, chapters 246, 256B, 256D, and 256E, shall be expended in accordance with parts 9530.6600 to 9530.6655.

9530.6605 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 9530.6600 to 9530.6655 the following terms have the meanings given them.

Subp. 2. **Adolescent.** "Adolescent" means an individual under 18 years of age, defined as a child under Minnesota Statutes, section 260.015, subdivision 2.

Subp. 3. **Arrest or legal intervention related to chemical use.** "Arrest or legal intervention related to chemical use" means an arrest or legal intervention for a crime that took place while the individual was under the influence of chemicals, took place in order to obtain chemicals, or took place in order to obtain money to purchase chemicals. When the client is an adolescent, arrest or legal intervention related to chemical use also means contact with law enforcement personnel as a result of a crime that meets this definition but for which no arrest took place, and status offenses and petitions of incorrigibility in which behavior resulting from chemical use played a significant role.

Subp. 4. **Assessor.** "Assessor" means an individual qualified under part 9530.6615, subpart 2 to perform an assessment of chemical use.

Subp. 5. **Chemical.** "Chemical" means alcohol, solvents, and other mood altering substances, including controlled substances as defined in Minnesota Statutes, chapter 152.

Subp. 6. **Chemical abuse.** "Chemical abuse" means a pattern of inappropriate and harmful chemical use as defined in subpart 18. "Chemical abuse" includes inappropriate and harmful patterns of chemical use that are linked to specific situations in an individual's life such as loss of a job, death of a loved one, or sudden change in life circumstances. Chemical abuse does not involve a pattern of pathological use, but it may progress to pathological use.

Subp. 7. **Chemical dependency.** "Chemical dependency" means a pattern of pathological use as defined in subpart 20, accompanied by the physical manifestations of increased tolerance to the chemical or chemicals being used or withdrawal syndrome following cessation of chemical use. Chemical dependency includes a pattern of pathological use as defined in subpart 20, accompanied by the physical manifestations of

of chemical dependency rehabilitation services which may include group counseling, employment counseling, individual counseling, or self-help groups.

Subp. 18. **Inappropriate and harmful use.** "Inappropriate and harmful use" means use of a chemical which exceeds social or legal standards of acceptability, the outcome of which is characterized by three or more of the following:

A. weekly use to intoxication;

B. inability to function in a social setting without becoming intoxicated;

C. driving after consuming sufficient chemicals to be considered legally impaired under Minnesota Statutes, section 169.121, whether or not an arrest takes place;

D. excessive spending on chemicals that results in an inability to meet financial obligations;

E. loss of friends due to behavior while intoxicated; or

F. chemical use that prohibits one from meeting work, school, family, or social obligations.

Subp. 19. **Outpatient treatment.** "Outpatient treatment" means a licensed treatment program, the main purpose of which is to provide primary or post-primary treatment care, with a defined regimen that serves five or more individuals at one time who are experiencing problems related to chemical use. The regimen must provide a minimum of ten hours of total service time scheduled at a minimum of one hour per week and must provide time-limited therapeutic services on a nonresidential basis employing individual treatment plans to individuals receiving treatment.

Subp. 20. **Pathological use.** "Pathological use" means the compulsive use of a chemical characterized by three or more of the following:

A. daily use required for adequate functioning;

B. an inability to abstain from use;

C. repeated efforts to control or reduce excessive use;

D. binge use, such as remaining intoxicated throughout the day for at least two days at a time;

E. amnesic periods for events occurring while intoxicated; and

F. continuing use despite a serious physical disorder that the individual knows is exacerbated by continued use.

Subp. 21. **Physical deterioration.** "Physical deterioration" means a history of chemically related seizures, delirium tremens, pancreatitis, hepatitis, brain damage, or other medical problems associated with chemical use.

Subp. 22. **Primary residential treatment in a free-standing facility.** "Primary residential treatment in a free-standing facility" means a licensed chemical dependency residential program not located in an acute care hospital that provides intensive therapeutic services following detoxification. At least 30 hours a week per individual of chemical dependency services must be provided, including group and individual counseling, lectures, and other services specific to chemical

a variance from the commissioner to approve a county designee that does not meet the criteria under subpart 3 if the conditions under item A or B exist. The request for a variance must be submitted in writing and must document that the conditions in item A or B exist.

A. A culturally specific service provider, or a service provider with a program designed to treat individuals of a specific age, sex, or sexual preference is available in the county and the service provider employs a qualified assessor.

B. The county does not employ a sufficient number of qualified assessors and the only qualified assessors available in the county have a direct shared financial interest or a referral relationship resulting in shared financial gain with a treatment provider.

A county designee providing assessments under a variance granted under subpart 5 shall not place clients in treatment. The county designee shall gather information required under part 9530.6620 and provide the local agency with the documentation required under part 9530.6615, subpart 4, items A to D. The local agency must make all placement decisions for clients assessed by a county designee under a variance.

Subp. 5. **Review of variance request; notification.** The commissioner shall review a variance request submitted by a county. If the county has demonstrated that a condition under subpart 4, item A or B exists, the commissioner shall approve the request. A variance requested and granted under subpart 4, item B, shall not extend for more than 12 months from the date of approval. If the commissioner denies a requested variance, the commissioner shall notify the county within 30 days of receipt of the variance request of the reasons for the denial.

9530.6615 CHEMICAL USE ASSESSMENTS.

Subpart 1. **Assessment mandate.** The county shall provide a chemical use assessment for each client seeking treatment or for whom treatment is sought for chemical dependency or chemical abuse problems before the client is placed in a program identified in part 9530.6600, subpart 2. The assessment must be done in a language understandable to the client and must be completed within the time limits specified under part 9550.0070. The county shall provide interpreters for the hearing impaired and foreign language interpretive services when necessary.

Subp. 2. **Staff performing assessment.** Chemical use assessments must be conducted by qualified staff of the county or their designee in a manner that complies with parts 9530.6600 to 9530.6655. An individual is qualified to perform chemical use assessments if he or she annually completes a minimum of eight hours of in-service training or continuing education, documented under part 9530.6610, subpart 2, item C, and meets the criteria in one of the items listed below:

A. The individual has successfully completed 30 hours of classroom instruction on chemical dependency assessments, has successfully completed one year of work experience in chemical dependency assessments, either as an intern or as an employee, and has successfully completed two additional years of work experience in chemical dependency assessments or treatment before July 1, 1987.

B. The individual has successfully completed 270 hours of classroom instruction in the subject area of chemical dependency, including 30 hours on chemical dependency assessments, and has successfully completed a one year internship or one year of work experience in chemical dependency

9530.6650 apply.

C. Specific behaviors exhibited by the client when under the influence of chemicals, such as verbal or physical fights, impaired social relationships, criminal behaviors, and other antisocial behaviors.

D. The client's current family status; the client's family history, including history or presence of neglect, or emotional, physical, or sexual abuse; the client's level of family support, the effects of the client's chemical use on other family members and significant others, and chemical use, abuse, or dependency among family members and significant others and its effects on the client.

E. Previous assessments or attempts at treatment of the client for chemical abuse or dependency, or mental illness.

F. The client's physical disorders documented by a physician or a mental disorder documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist which may have contributed to the problems brought on by chemical misuse, or which in combination with chemical use, abuse, or dependency present serious health risks.

G. The client's arrests or legal interventions related to chemical use.

H. The ability of the client to seek, obtain, be trained for, and function appropriately in a work setting relative to the use, abuse, or dependency on chemicals.

I. The ability of the client to function in an educational setting, and changes in the client's level of functioning relative to use, abuse, or dependency on chemicals.

Subp. 2. **Rating level of chemical involvement.** Assessors shall consider the information gathered in accordance with subpart 1, rate the level of chemical involvement for each client as described in this subpart, and record a summary of this information as required under part 9530.6610, subpart 1. The level of chemical involvement must be used to determine the appropriate level of care for each client.

A. Level 0: no apparent problem.

B. Level 1: risk status. While demonstrating no current pattern of pathological use, the individual's behavior suggests that he or she is at risk of developing future problems associated with chemical use as evidenced by two or more of the following:

(1) family or peer group glamorizes chemical use or tolerates chemical use related deviance;

(2) time, money, and relationships are predominantly associated with chemical use;

(3) at least two instances of blackouts; or

(4) a history of alcoholism in one or more of the biological parents.

C. Level 2: chemical abuse. A pattern of inappropriate and harmful chemical use.

Chemical abuse includes inappropriate and harmful patterns of chemical use that are linked to specific situations in a client's life such as loss of a job, death of a loved one, or sudden change in life circumstances.

dependent under part 9530.6620, subpart 2, and meeting the criteria of item A or B shall be placed in primary residential treatment in a hospital setting.

A. The client has a physical complication documented by a physician which requires more than detoxification, or brief or episodic nursing care.

B. The client has a mental disorder documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist which requires more than brief or episodic nursing care, but which does not otherwise prevent the client from participating in and benefitting from chemical dependency treatment.

9530.6640 PLACEMENT CRITERIA FOR EXTENDED CARE.

A client shall be placed in extended care if the client is assessed as chemically dependent under part 9530.6620, subpart 2, and is experiencing four or more of the following:

A. The client has participated in primary residential treatment within the past two years.

B. The client has a previous arrest or legal intervention related to chemical use in the past year.

C. The client has a history of physical deterioration due to chemical use documented by a physician.

D. The client lacks family support.

E. The client has a loss of employment or has experienced suspension or expulsion from school due to chemical use.

F. The client lacks recognition of the need to change harmful behaviors.

G. The client has a history of a mental disorder which is now under control as documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist.

9530.6645 PLACEMENT CRITERIA FOR A HALFWAY HOUSE.

A client shall be placed in a halfway house if the client has been assessed as chemically dependent under part 9530.6620, subpart 2; has either been discharged from a detoxification, primary treatment, or extended care program, or is currently participating in an outpatient program; and has experienced three or more of the following:

A. the client is unable to avoid chemical use related problems outside a residential facility that controls access to chemicals;

B. the client lacks family support;

C. the client has a loss of employment or education due to chemical use;

D. the client has an absence of friends and associates who advocate treatment and are willing to assist the client in achieving program goals; or

E. the client has a history of a mental disorder that is now under control as documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist.

9530.6655 APPEALS.

Clients who are denied an assessment under part 9530.6615, denied placement, or who disagree with the level of chemical dependency care proposed shall have the right to a fair hearing under Minnesota Statutes, section 256.045. Notice of the right to appeal must be given in accordance with part 9550.0092.

EFFECTIVE DATE. Parts 9530.6600 to 9530.6655 are effective January 1, 1987, unless otherwise specified.

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DRAFT RULE 25 PLACEMENT SUMMARY

Client's Name _____

Assessor _____

File Number _____
(county assigned)

Check the criteria applicable to the treatment modality selected and any exception if used. All items checked must be clearly documented in the case file.

LIC. OUTPATIENT	LIC. PRIMARY RESIDENTIAL	LIC. EXTENDED	LIC. HALFWAY
[ ] Chemically Dependent OR [ ] Chemical Abuser plus Chemical Use caused: (check at least one) OR [ ] Loss/Impair of Voc/Educ OR [ ] Family Relation Deterioration	[ ] Chemically Dependent PLUS [ ] Unable to Abstain PLUS one or more: [ ] Loss/Impair of Voc/Educ [ ] Lacks Family Support [ ] Legal in Past Year [ ] C.D. Treatment in Past Yr. HOSPITAL INPATIENT [ ] Need for Nursing Care	[ ] Chemically Dependent PLUS four or more: [ ] Primary Res. in Past 2 Years [ ] Legal in Past Year [ ] M.D. Documents Physical Deterioration due to C.D. [ ] Lacks Family Support [ ] Lost Voc/Educ due to C.D. [ ] Documented Mental Disorder (Under Control) [ ] Lacks Recognition of Need to Change	[ ] Chemically Dependent PLUS [ ] Now in Outpatient or was in Detox, Primary, or Extended PLUS three or more: [ ] Unable to Abstain [ ] Lacks Family Support [ ] Lost Voc/Educ due to C.D. [ ] Lacks Helpful Social Network [ ] Documented Mental Disorder (Under Control)

EXCEPTIONS:

[ ] 1. Client referred to a program which is "culturally specific" or for a specific age, sex, or sexual preference.

[ ] 2. Outpatient is not available within 50 miles.

[ ] 3. Civil commitment in accordance with M.S. Chapter 253B.

[ ] 4. Funding source constraints.

[ ] 5. Adolescent (explain) _____

_____

[ ] 6. Alternative placement for chronic.

[ ] 7. Alternative to halfway house placement.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
444 LAFAYETTE ROAD
ST. PAUL, MINNESOTA 55101

January 14, 1987

Ms. Debbie Carpenter
Utilization Review Coordinator
St. Paul-Ramsey Medical Center
640 Jackson Street
St. Paul, MN 55101

Dear Ms. Carpenter:

Thank you for your letter of January 6, 1987 in which you requested clarification of the relationship between the criteria used in Rule 25 to determine chemcial dependency and those proposed in the amendments to Rule 48.

Minnesota Rules, parts 9530.6600 to 9530.6655, (Rule 25), contain criteria to be used in assessing chemical dependency. These rules became effective on January 1, 1987. Concurrently with their development, the department became aware of the fact that Rule 48 related to certification of hospital admission of medical assistance recipients did not have criteria to determine the medical necessity of hospitalization for chemical dependency treatment. Although the proposed Rule 48 amendments published in the State Register on December 8, 1986 would require the use of the Effective Care '81 Criteria, it is necessary that criteria in Rule 48 be consistent with the adopted Rule 25. Therefore, the proposed criteria for Rule 48 will be amended to require the medical review agent to assure that the county has determined that the patient's symptoms meet the criteria of parts 9530.6600 to 9530.6655 in order to issue a certification number for hospital admission.

Thus, there will be one set of criteria and one assessment, those specified in parts 9530.6600 to 9530.6655. Furthermore, the medical review agent will not be responsible for the assessment but only for making sure the assessment was done before issuing a certification number.

The amendments to parts 9505.0500 to 9505.0540 are expected to be

effective in March. The department will inform providers and counties of the effective date of the rule change as soon as it is definite.

If you have further questions concerning this matter, please contact either Deby Moerer at 297 3713 or me at 297 4301.

Sincerely,

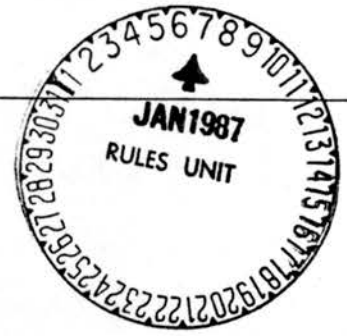
Eleanor Weber

Eleanor Weber
Management Analyst 4
Appeals and Regulations

cc: Deby Moerer

St. Paul·Ramsey
Medical Center

640 Jackson Street, St. Paul, Minnesota 55101 • 612/221-3456



January 6, 1987

Eleanor Weber
State of Minnesota
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota

Dear Ms. Weber,

I am writing to ask clarification of the recent information bulletin #86-51F. Please clarify the relationship between these criteria used in Rule 25 to determine chemical dependency and those proposed in amendment to Rule 48. Are these going to be two different criteria? It will place an added burden on hospitals if these have to be two different determinations. It seems it would be much more efficient and less confusing if we had one set of criteria. I would appreciate a reply as soon as you are able to clarify this issue. Thank you.

Sincerely,
Debbie Carpenter
Debbie Carpenter, ART
Utilization Review Coordinator

An Equal Opportunity Employer

In the Matter of the Adoption of Amendments to the Rule of the State Department of Human Services, Minnesota Rules parts 9505.0500 to 9505.0540, Governing Inpatient Hospital Admission Certification in the Medical Assistance Program

DECLARATION OF COUNSEL

I, James S. Alexander, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 98 677K 0866.

James S. Alexander

Special Assistant
Attorney General

Dated: 2-12-87

In the Matter of the Adoption of Amendments to the Rule of the State Department of Human Services, Minnesota Rules, parts 9505.0500 to 9505.0540, Governing Inpatient Hospital Admission in the Medical Assistance Program

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eleanor Weber, being sworn, says:

That on the 12th day of February, 19 87, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed 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, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Eleanor Weber
(Name)

Management Analyst 4
(Title)

Subscribed and sworn to before me this 12th day of February, 1987.

Jean D. Storm

JEAN D. STORM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES FEBURARY 3, 1991

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to the Rule Of the State Department of Human Services Minnesota Rules, parts 9505.0500 to 9505.0540, Governing Inpatient Hopsital Admission Certification in the Medical Assistance Program

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, February 12, 1987 for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on December 8, 1986, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule is available upon request from Eleanor Weber at (612) 297 4301.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the attorney general. You may submit written comments to the attorney general on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts of subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone Number: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services
Space Center
444 Lafayette Road
St. Paul, MN 55101

Eleanor Weber

Eleanor Weber

Dated: February 12, 1987

Management Analyst 4

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENT OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING HOSPITAL ADMISSION CERTIFICATION, MINNESOTA RULES, PARTS 9505.0500 TO 9505.0540

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 3rd day of December, 1986.

Nancy Stoerle

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Governing Hospital Admission Certification, Minnesota Rules, parts 9505.0500 to 9505.0540

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, Room D, Fifth Floor, 20 West 12 Street and Columbus Avenue, St. Paul, Minnesota 55155 on January 15, 1987 commencing at 10:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 8, 1987 and January 14, 1987 at (612) 297 4301.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Allan Klein, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7609, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted

during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Parts 9505.0500 to 9505.0540 establish the procedure and criteria for determining the medical necessity of inpatient hospital services to recipients of medical assistance and general assistance medical care. The proposed amendments clarify the definition of readmission, authorize retroactive admission certification, clarify parties who may appeal, and establish criteria for determining the medical necessity of residential chemical dependency treatment and inpatient psychiatric treatment. Additionally, the proposed amendments make technical corrections that do not affect the substance of the rules.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256B.503 and 256D.03, subdivision 7 (b). Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services.
444 Lafayette Road
St. Paul, MN 55101

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to

Eleanor Weber
Division of Appeals and Regulations
Department of Human Services.
444 Lafayette Road
St. Paul, MN 55101

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Eleanor Weber, (612) 297 4301.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the

rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert, St. Paul, Minnesota, 55101, telephone (612) 296-5615.

STATE OF MINNESOTA



Dated: 11-14-86

LEONARD W. LEVINE, COMMISSIONER
Department of Human Services

Notice of Intent
No small Business Statement

Rule

P 3 line ~~30~~ 29 "may retroactively"
D/N see a problem.

P 3 line 4 "May be appealed"
D/N see a problem

Authority

256B.503 *
256D.03 subd 7(b) authority may be found here.
I'm not sure

↳ "The Commissioner shall adopt rules to implement this section by July 1, 1986." Has time expired?

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
444 LAFAYETTE ROAD
ST. PAUL, MINNESOTA 55101

RECEIVED
FEB 12 1987
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

February 10, 1987

TO: Rita Desmond
Legal Assistant
Attorney General's Office, Administrative Division

FROM: Eleanor Weber

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Department of Human Services Rules, parts 9505.0500 to 9505.0540, Governing Inpatient Hospital Admission Certification in the Medical Assistance Program.

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0300 for your review of a rule adopted without a public hearing for the above entitled matter.

Official documents in this submitted material include:

1. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register.

2. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

3. The notice of intent to adopt a rule without a public hearing as mailed.

4. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

5. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a is accurate, complete, and current and that the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list.

6. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

7. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the revisor of statutes.

8. The findings of fact, conclusions, and order adopting the rule.

9. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

10. The declaration of the attorney in the attorney general's office who represents the agency.

11. The notice of submission of the rule to the attorney general, if applicable.

12. The affidavit of mailing notice of submission of the rule to the attorney general, if applicable.

If you have any questions on this submitted material, please call me at 297 4301.