

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1376 Docket No. 05.0009.0850

DATE RECEIVED 6/19/87
REVIEW DATE 6/26/87
DUE DATE 7/3/87

APPROVED 7-2-87 MJC
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WITHDRAWN ✓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
11/24/86 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
252.27 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
4/22/87 Date (30)/25 days before adoption

✓ Publication in State Register
4/27/87 Date (30)/25 days before adoption

___ ~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting
6/19/87 Date

✓ ~~Written requests, submissions or comments~~ stet

___ Declaration of attorney
Name of SAAG representing agency Coming in mail rec'd

✓ Certificate
Notice of Submission to Attorney General

___ Affidavit of Mailing Notice to ~~Attorney General~~

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : July 2, 1987

TO : JANE NELSON
Rules Unit
Department of Human Services

FROM : MARTHA CASSERLY
Special Assistant
Attorney General

PHONE : 6-6204

SUBJECT : In the Matter of the Adopted Rule Relating to Parental Fees for Children Placed in 24-Hour Out-of-Home Care

The above-referenced rule has been approved as to its legality by the Attorney General on July 2, 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.

MJC: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 Parental Fees for Children Placed in 24-Hour Out-of-Home Care

Rules as Adopted

9550.6210 DEFINITIONS.

Subpart 1. to 13. [Unchanged.]

Subp. 13a. **Respite care.** "Respite care" means short-term supervision and care provided to a child due to temporary absence or need for relief of the child's parents and involving the out-of-home care of a child for a minimum of a continuous 24-hour period of time. For purposes of this subpart, "short term" means a cumulative total of less than ~~90 24-hour days~~ 2,160 hours in a year.

Subp. 14. [Unchanged.]

9550.6220 DETERMINATION OF PARENTAL FEE.

Subpart 1. to 9. [Unchanged.]

Subp. 10. **Discharge.** Except as provided in subpart 10a, the full monthly parental fee must be assessed unless the child is discharged and spends less than a full month in 24-hour out-of-home care. In this case, the full fee must be reduced only if the actual cost of care during that month is less than the regular fee.

Subp. 10a. **Parental fee for respite care.** When a child is placed in 24-hour out-of-home respite care, the parental fee must be a per diem fee multiplied by the number of days the child is in 24-hour out-of-home respite care. The per diem fee must be determined in the following manner:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. Using the household size and income figures in items A and B, the percentage schedule supplied by the

Approved by Revisor

department in subpart 4 must be used to determine the applicable percent to be applied to the parent's income.

D. Determine the per diem fee by multiplying the income from item B by the percent from item C and divide the product by 365.

E. Any part of a day spent in 24-hour out-of-home respite care must be counted as a full day for purposes of this fee.

F. The parental fee must be determined at the end of a month when respite care is used.

Subp. 11. to 14. [Unchanged.]

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL - 2 1987
Joan Anderson Growe
Secretary of State
10:00 AM

APPROVED AS TO FORM AND LEGALITY
July 2 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Human Services

Proposed Permanent Rules Relating to Parental Fees for Children Placed in 24-Hour Out-of-Home Care

Rules as Proposed

9550.6210 DEFINITIONS.

Subpart 1. to 13. [Unchanged.]

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Subp. 14. [Unchanged.]

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Approved by Revisor

department in subpart 4 must be used to determine the applicable percent to be applied to the parent's income.

D. Determine the per diem fee by multiplying the income from item B by the percent from item C and divide the product by 365.

E. Any part of a day spent in 24-hour out-of-home respite care must be counted as a full day for purposes of this fee.

F. The parental fee must be determined at the end of a month when respite care is used.

Subp. 11. to 14. [Unchanged.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Parental Fees for Children Placed in 24-Hour Out-of-Home Care

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9550

The attached rules are approved for publication in the State Register

Susan E. Quayle
Assistant Revisor

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Adopted Rules of the State Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-of-Home Care, parts 9550.6210 and 9550.6220.

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 amendments without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28.[1] The specific statutory authority to adopt the amendments is contained in Minnesota Statutes, section 252.27.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed amendment and comment is encouraged.[2] Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any change proposed.[3]

Any person may make a written request for a public hearing on the amendment 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.[4] 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 amendment addressed, the reason for the request, and any change proposed.[4] If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20.[1]

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 June 8, 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 May 27, 1987 and June 7, 1987 at (612)296-3979.

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

Jane Nelson
Rulemaking Division
Department of Human Services
658 Cedar Street, Fourth Floor
St. Paul, MN 55155
Telephone: 612/297-1217

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 26, 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.

Parts 9550.6210 and 9550.6220 are contained in adopted parts 9550.6200 to 9550.6240 which establish the fee parents must pay for a child placed in 24-hour out-of-home care. The proposed "respite care" amendments contained in parts 9550.6210 and 9550.6220 would treat the fee for 24-hour respite care separately from, and differently than, the fee for a long-term out-of-home placement. Part 9550.6210 adds a definition of "respite care" and part 9550.6220 provides a formula for the determination of a parental fee for respite care based on a per diem rather than a monthly basis.

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

Gordon Buyse
Social Services Division
Centennial Office Building, Fourth Floor
658 Cedar Street
St. Paul, MN 55155
Telephone: 612/296-3979

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

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 Gordon Buyse on request.

As required by Minnesota Statutes, section 3.98, subdivision 2 and 14.11, the Department estimates that the total net cost to state and local agencies over the next two years as a result of the above proposed amendments will total less than $100,000 in either of the first two years

following adoption. A copy of the fiscal note explaining the cost of the proposed amendments is available from Gordon Buyse. A copy of the fiscal note has been sent to the chair of each county board as required by Minnesota Statutes, section 256E.05, subdivision 3(c).

If no hearing is required upon adoption of the rule, the proposed rule amendments 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 amendments, must submit the written request to Jane Nelson.

State of Minnesota

Al Hansel for

SANDRA S. GARDEBRING, Commissioner
Department of Human Services

Dated: April 9, 1987

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Respite Care Amendments to Rules of the Department of Human Services governing Parental Fees for Children Placed in 24-hour Out-of-Home Care, parts 9550.6210 and 9550.6220.

STATEMENT OF NEED AND REASONABLENESS

Adopted rule parts 9550.6200 to 9550.6240 establish standards for the assessment and collection of fees from the parents of children placed out of the home in 24-hour care.

Authority for the adopted rules and proposed amendments are found in M. S. 252.27.

BACKGROUND AND PROCESS

The current rule parts 9550.6200 to 9550.6240 were adopted on June 29, 1986. Subsequent to adoption, the social services division of the department was made aware by the department's mental retardation division, parent's of children in care, and the Minnesota Association of Retarded Citizens, that the rule, as it was applied to respite care, was unreasonable and unfair. The department reviewed the adopted rule and determined that parts 9550.6210 and 9550.6220 should be amended.

A Notice of Solicitation of Outside Opinion on a respite care amendment to the adopted parental fee rules was published in the State Register at 11 S. R. 958 on November 24, 1986. (Exhibit A)

Members of the advisory committee established to develop the adopted parental fee rule were mailed a draft of the proposed amendments in early December 1986 and requested to comment. The comments received were generally supportive of the amendments. The department perceived that those areas of disagreement that did emerge among committee members were beyond the scope of the proposed amendments, adopted rule parts, and statute authorizing the rule. After committee member review and comment, the amendments were further modified for clarification of scope and intent. Members of the advisory committee are listed in Exhibit B.

PART 9550.6210, SUBPART 13a

Respite care definition. Since the purpose of the proposed rule is to amend parts 9550.6200 to 9550.6240 to treat the parental fee for 24-hour out-of-home respite care separately from and differently than long-term out-of-home 24-hour care, it is necessary that a definition of "respite care" be included to ensure consistent administration.

The department reviewed the definition for "respite care" in part 9525.1860, subpart 2, item I, and the definition of "short term" in part

9525.1800, subpart 25. While much of the substance of these definitions were used, they could not be totally applied within the scope of M. S. 252.27.

Part 9525.1860, subpart 2, item I defines "respite care" as:

> short-term supervision, assistance, and care provided to a client due to the temporary absence or need for relief of the client's family, foster family, or primary caregiver. Respite care may include day, overnight, in-home, our out-of-home services, as needed.

Part 9525.1800, subpart 25 defines "short term" as:

> a cumulative total of less than 90 24-hour days or 2,160 hours in a fiscal year.

The respite care definition in part 9525.1860, subpart 2 is too broad for purposes of implementing M. S. 252.27. The term "client" needed specific modification to mean "child" because M.S. 272.27 refers to children. Since M. S. 252.27 only relates to "parent's", and care provided out of the child's own home, the term "client's family, foster family, or primary caregiver" was not applicable. M.S. 272.27 limits application of the rule to 24-hour out-of-home care not "day care" or "in-home care." While the definition of "short term" was generally applicable, the phrase "2,160 hours" was not necessary since only 24-hour increments are referred to in M.S. 252.27. The term "fiscal" also was not considered necessary since the state and counties may have fiscal years beginning and ending at different times. The key component is not fiscal year, but a 12 month cycle.

The definition as proposed is thus reasonable because it provides for care outside the child's own home. M. S. 252.27, subdivision 1, refers to care "outside the home", and subdivision 2 specifies "out-of-home" care. The application of the respite care amendment and thus the possible reduction in fee, is reasonable only in those instances where the child is in care outside of the child's own home. The amendment does not apply to care provided in the child's home.

The definition as proposed is reasonable because it relates to the broader context of the rule - parental fees. It does not apply to all cases of short-term relief provided by any caregiver of the child - only to relief of the parent. The fee paid by the parent would not be reduced, for example, if a child is in a foster home and is moved for a weekend from the foster home to another 24-hour residential care facility to provide relief for the foster parent. In this instance the child is still in 24-hour out-of-home care outside of the child's own home.

The definition is reasonable because it does not apply to all forms of out-of-home care. It applies when the child is placed in 24-hour out-of-home care. Daycare, or a period of care that constitutes only a portion of a 24-hour day in a facility not licensed to provide residential 24-hour care, would not fall under this amendment. M. S. 252.27, subdivision 1 states "24-hour care" outside the home. The definition of respite care contained in the part 9525.1860, subpart 2, Item I includes "day and in-home care" and is thus too broad to apply under the scope of M. S. 252.27.

Finally, the definition is reasonable because a department survey of 20 counties on the use of respite care showed only five case reports out of 235 reporting use of respite care for more than six days a month. The definition of "short term" as an "accumulative total of less than 90 24-hour days within a fiscal year" would thus allow for the general use of respite care reported and provide consistency with current practice.

PART 9550.6220, SUBPART 10

It is necessary to amend this part to clarify that the amendment in subpart 10a creates an exception to the adopted standard.

PART 9550.6220, SUBPART 10A

It is necessary to amend add this amendment to adopted parts 9550.6200 to 9550.6240 to allow for the determination of a parental fee for 24-hour out-of-home respite care that is different from the fee determined for long-term 24-hour out-of-home care. The current adopted rule determines the parental fee on a monthly basis with the assumption that most out-of-home 24-hour care is continuous and long-term - sometimes monthly and usually yearly. Out-of-home 24-hour respite care is short-term in nature and its purpose is to provide relief for the parent for short periods of time and in situations where the parent maintains the child in the child's own home. Fees that are based on the assumption of long-term care are inappropriate and unfair when applied to cases where the care is for a small number of days a month.

The proposed amendment, part 9550.6220, subpart 10a, is necessary to support the public policy on permanency for children which requires a remedy consistent with other department initiatives to maintain children in the least restrictive environment and be consistent with M. S. 256F.01 of the Permanency Planning Grants to Counties Act which was adopted in 1985. The assessment of a full monthly fee for respite care creates a disincentive for parents who have made the decision to care for a child in their own home.

The amendment proposed is reasonable because it allows fees for out-of-home 24-hour respite care to be determined on a per diem basis for the actual number of days that respite care is provided. The respite care fee will be determined by taking a yearly fee and dividing it by 365 days.

EXPERT WITNESSES

The department does not plan to call any outside experts to testify on behalf of these proposed rule amendments should a hearing be held.

April 9, 1987
Date:

Sandra S. Gardebring, Commissioner
Department of Human Services
fmc

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENTS TO ADOPTED RULES OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING PARENTAL FEES FOR CHILDREN PLACED IN 24-HOUR OUT-OF-HOME CARE, MINNESOTA RULES, PARTS 9550.6210 TO 9550.6220

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 22nd day of April, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notices of Hearing 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
.The Advisory Committee
.Other Interested Parties

Nancy Storelee

Subscribed and sworn to before me

this 22nd day of April, 1987

Jacqueline Sue Wierstad

JACQUELINE SUE WIERSTAD
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCTOBER 12, 1990

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Governing Parental Fees for Children Placed in 24-Hour Out-of-Home Care, parts 9550.6210 and 9550.6220

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 Veteran's Service Building, 5th Floor Cafeteria, 20 West 12th Street, St. Paul, Minnesota, on June 8, 1987, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule amendments, you are urged to participate in the 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 RULE AMENDMENTS 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 May 27, 1987 and June 7, 1987 at (612)296-3979.

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 George Beck, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612)341-7601, 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 9550.6210 and 9550.6220 are contained in adopted parts 9550.6200 to 9550.6240 which establish the fee parents must pay for a child placed in 24-hour out-of-home care. The proposed "respite care" amendments contained in parts 9550.6210 and 9550.6220 would treat the fee for 24-hour respite care separately from, and differently than, the fee for a long-term out-of-home placement. Part 9550.6210 adds a definition of "respite care" and part 9550.6220 provides a formula for the determination of a parental fee for respite care based on a per diem rather than a monthly basis.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 252.27.

Adoption of these rule amendments 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 Gordon Buyse, Social Services Division, Centennial Office Building, Fourth Floor, 658 Cedar Street, St. Paul, Minnesota 55155, Telephone 612/296-3979.

Copies of the proposed rule amendments are now available and at least one free copy may be obtained by writing to Gordon Buyse, Department of Human Services. The rule amendments are also available for viewing at each 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 amendments contact Gordon Buyse.

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

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 rule amendments. 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 Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

SANDRA S. GARDEBRING, Commissioner
Department of Human Services
for

Dated: April 9, 1987

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Adopted Rules of the State Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-of-Home Care, parts 9550.6210 and 9550.6220.

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St. Paul, MN 55155
Telephone: 612/296-3979

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

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 Gordon Buyse on request.

As required by Minnesota Statutes, section 3.98, subdivision 2 and 14.11, the Department estimates that the total net cost to state and local agencies over the next two years as a result of the above proposed amendments will total less than $100,000 in either of the first two years

following adoption. A copy of the fiscal note explaining the cost of the proposed amendments is available from Gordon Buyse. A copy of the fiscal note has been sent to the chair of each county board as required by Minnesota Statutes, section 256E.05, subdivision 3(c).

If no hearing is required upon adoption of the rule, the proposed rule amendments 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 amendments, must submit the written request to Jane Nelson.

State of Minnesota

Al Hansel for

SANDRA S. GARDEBRING, Commissioner
Department of Human Services

Dated: April 9, 1987

ADDITIONAL MAILING LIST

Parental Fee Rule Amendments
April 13, 1987

Ms. Barb Anderson
Medical Assistance
Space Center, First Floor

Ms. Luanne Laurents
Reimbursements
Space Center, First Floor

Ms. Sue Abderholden
Association of Retarded Citizens
(ARC) of Minnesota
3225 Lyndale Avenue South
Minneapolis, MN 55408-3699

Ms. Carolyn Corson
Dakota County ARC
2740 Isle Royale Court
Burnsville, MN 55337

Anne L. Henry, Attorney at Law
Legal Advocacy for Persons with
Developmental Disabilities
222 Grain Exchange Building
323 - Fourth Avenue South
Minneapolis, MN 55415

Mr. Harold Tapper
(ARRM) Minnesota Association of Residential
Facilities for the Retarded in Minnesota
1885 University Avenue
St. Paul, MN 55104

James Abts, President
Minnesota Association of County
Social Service Administrators
Ramsey County Department of Human Services
160 East Kellogg Boulevard
St. Paul, MN 55101

George Steiner, Director
Anoka County Community Health
and Social Services
Courthouse
Anoka, MN 56303

Mr. Tim Jeffrey
Social Services Supervisor's Association
Stearns County
700 Mall Germain
St. Cloud, MN 56301

Charlotte Farnum, Supervisor
MI, MA
Washington County Social Services
939 West Anderson Street
Stillwater, MN 55082

Ms. Kathy Wubben
Ramsey County Office of the County Attorney
Lowry Medical Arts Building
Suite 480
28 West 5th Street
St. Paul, MN 55102

George Carr, Director
Mental Health Association of Minnesota
5501 Green Valley Drive, Suite 103
Bloomington, MN 55437

Pat Coyne
Nicollet County Social Services
Courthouse, Box 300
St. Peter, MN 56082

Ms. Geraldine Gage
Professor of Family Social Science
Family Economics
Department of Family Social Services
University of Minnesota
284 McNeil Hall
St. Paul, MN 55108

Richard Ramberg, Executive Director
Minnesota Council for the Handicapped
Metro Square Building, Room 208
7th and Robert Streets
St. Paul, MN 55155

Marlin Possehl
Minnesota Epilepsy League
404 South Eighth Street
Minneapolis, MN 55404

Ms. Dianne Huettl
Ramsey County Social Services
160 East Kellogg Boulevard
St. Paul, MN 55101

Ms. Darlene Ahlstrom
243 Harvest Avenue Northwest
St. Mary's Hills Add.
Rochester, MN 55901

T. L. Crooks
2404 Northwest 22nd Street
Rochester, MN 55901

William Craig Brooks, Director
Winona County Department of Social Services
171 West 3rd
Courthouse
Winona, MN 55987

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(labels - 20-20.1)

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Parental Fees for Children Placed in 24-Hour Out-of-Home Care

AFFIDAVIT OF MAILING TO COUNTY BOARD CHAIR

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

That on the 17th day of April, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached letter and fiscal note 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 Chairperson of the 87 Minnesota County Boards of Commissioners.

Nancy Storelee

Subscribed and sworn to before me

this 20 day of April, 1987.

Louise J. Brendel

LOUISE J. BRENDEL
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES

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

April 13, 1987

Dear Chairperson Board of County Commissioners:

As required by Minnesota Statutes, section 256E.051, subdivision 3 (c), we are providing you with timely advance notice and a written summary to the fiscal impact of proposed amendments to adopted rule parts 9550.6210 and 9550.6220 governing Parental Fees for Children Placed in 24-Hour Out-of-Home Care.

The department's fiscal note which is attached, shows a net fiscal impact of $10,000 to $17,000 state wide over a two year period following promulgation of the proposed amendments.

Any questions or comments about this notice should be made to Gordon Buyse, Social Services Division (612) 296-3979.

Sincerely,

SANDRA GARDEBRING
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Rules of the Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-of-Home Care, parts 9550.6210 and 9550.6220

Fiscal Note

As required by Minnesota Statutes, section 14.11 and 256E.05, subdivision 3(c), a fiscal note assessing the net expenditures of public monies over the next two years by state and local agencies has been prepared and the chair of each county board has been notified. Chapter 14 requires a statement of net cost and discussion of the method for determining that net cost. Minnesota Statutes 256E.05 requires that additional notice be given to the chair of each county board, along with a written summary of any rule changes which will increase county CSSA costs.

The total net cost to state and local agencies over the next two years as a result of the above proposed amendments to the rule is estimated to be between $10,000.00 and $17,000.00.

DHS Regional Treatment Center/Central Reimbursement Office

A three-month survey by the Department of Regional Centers showed 19 separate uses of respite care by six persons. In all instances no fees were required. Only three Regional Centers were involved. With only six persons using respite care throughout the whole Regional Center system, the indication is that use is minimal and likely only in instances where parents have low income. The net cost of this amendment to the Department of Human Services Regional Centers can be considered zero.

County Social Service Agency Costs

To determine the fiscal impact of the proposed amendments on county social service agencies, a written survey of 20 counties was conducted by the Department. The survey asked counties to report cases of respite care use in the months of July, August, and September, as well as the number of days of use per month, the yearly income of parents, the fee applied, and the source of funding. The purpose of the survey was to determine current respite care use, fees collected, and funding source. Thirteen counties responded, including Hennepin, Ramsey, St. Louis, and Anoka. It was further determined, by phone, that all the counties that reported providing 24-hour out-of-home respite care (prior to the adoption of this rule) had applied a per diem fee to parents using respite care.

Fiscal Note: Respite Care Amendment

DHS, Medical Assistance Program Costs

Based on a survey conducted by the Department in December 1986 of 20 county social service agencies (14 responses), only five case situations out of 235 cases had parents paying any fee for respite care. This is two percent of the case situations reported.

Prior to the adoption of rule parts 9550.6200 to 9550.6240 on July 1, 1986, the Medical Assistance program, as administered by the county social services agencies, assessed per diem charges for respite care.

As a result of the adopted rules, fees for respite care were established for administration by the county social service agencies on a monthly basis, meaning that any use of respite care during the month would require assessment of the full monthly fee. The actual application of the adopted rule by county social service agencies has been uneven. The amendment to the adopted rule would return the Medical Assistance program, as administered by the county social service agencies, to the previous practice of charging per diem fees.

Due to the limited use or payment of 24-hour out-of-home respite care through Medical Assistance (2-5 percent), and the return of the fee policy to previous practice, the cost to the state Medical Assistance program is considered negligible.

STATE OF MINNESOTA

STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION



Monday 24 November 1986

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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 Human Services
Long Term Care Management Division

End of Solicitation Period for Comment Concerning Rules Relating to Nursing Home Operating Cost Payment Rate Determination

Notice is hereby given that the comment period for the notice of intent to solicit outside opinion concerning rules relating to nursing home operating cost payment rate determination, parts 9549.0050 to 9549.0059, published in the *State Register* on August 4, 1986 (Cite 11 S.R. 145) will end on December 1, 1986.

Questions concerning the comment period may be addressed to:

Jane Delage
Rules Unit
4th Floor, Centennial Building
St. Paul, Minnesota 55155
Telephone: 612/297-4302

Department of Human Services

Outside Opinion Sought Concerning Respite Care Amendment to Adopted Rule Governing Parental Fees for Children in 24-Hour Out-of-Home Care

Notice is hereby given that the Department of Human Services is seeking information or opinions from sources outside the department in preparing an amendment to adopted administrative rule parts 9550.6200 to 9550.6240 governing parental fees for children placed in 24-hour out-of-home care. The amendments would specify how parental fees would be determined when a child is placed in respite care. Authority for the amendments is contained in Minnesota Statutes 252.27 and 256.511.

All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Gordon Buyse
Social Services Division
Department of Human Services
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612/296-3979

All statements of information and comment shall be accepted until further notice. All written material received by the Department shall become part of the rule record.

Metropolitan Waste Control Commission

Public Notice for Prequalifications for the Preparation of a Design for the Empire Wastewater Treatment Plant Expansion

Notice is hereby given that the Metropolitan Waste Control Commission is soliciting prequalifications for the preparation of a design for the Empire Wastewater Treatment Plant expansion.

The prequalification should include the firm's interest to provide services, background data, qualifications and disciplines of employees, and the demonstratable experience of the firm.

The prequalification should include information on the firm's programs for compliance with equal employment opportunities,

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES OF THE DEPARTMENT OF HUMAN SERVICES GOVERNING PARENTAL FEES FOR CHILDREN PLACED IN 24-HOUR OUT-OF-HOME CARE, PARTS 9550.6210 AND 9550.6220

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

Notice of the Commissioner's proposed adoption of the above entitled matter was published in the STATE REGISTER on Monday, April 27, 1987 at 11 S. R. 1985 and was sent by United States mail on April 22, 1987 to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22. Notice and the fiscal note were also sent to the chairs of all county boards in accordance with Minnesota Statutes, section 245E.05 on April 17, 1987. The Statement of Need and Reasonableness was prepared before the Notice of Proposed Adoption of 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 department received 13 comments and no requests for a public hearing. Therefore, the agency did not receive request for a public hearing from 25 or more persons which were not withdrawn.

No requests for Notice of Submission to the Attorney General Administration were received by the department.

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

1. The Association for Retarded Citizens, Legal Advocacy for the Developmentally Disabled, and commentors Scroggins, Erickson, Bieber, Newberg, Humphrey, and Kester recommend making the proposed rules retroactive to June 6, 1986. Although the Department recognizes that some persons will benefit from the changes and want them effective as soon as possible, the public interest is ordinarily better served by giving notice in advance of rule changes. In this instance, retroactive changes may adversely affect the counties. Thus the Department does not accept this recommendation.

2. The Association for Retarded Citizens, Legal Advocacy for the Developmentally Disabled, and commentors Scroggins, Erickson, Bieber, Newberg, Humphrey and Kester urge the department to add a procedure for the payment of fees computed under the Medical Assistance eligibility rules. The department cannot accept this recommendation. Such an amendment does not fall within the authority of Minnesota Statutes 252.27 under which the amendments were proposed. Addition of such language would also constitute a substantial change. The department will, however, transmit the recommendation to the department's Health Care program division with Medical Assistance regulation oversight.

3. Commentor Anne Henry of Legal Advocacy for Persons with Developmental Disabilities recommends that the proposed definition of respite care be modified to provide for an hourly accrual of 24-hour out-of-home respite care use. The amendments as proposed established a 90 24-hour day limit within a year. The department accepts Ms. Henry's recommendation and modifies part 9550.6210, subpart 13a, page 1, line 14 as follows:

> 24-hour period of time. For purposes of this subpart, "short term means a cumulative total of less than ~~90 24-hour days~~ 2,160 hours in a year.

The modification would provide for greater flexibility for parents and extend the use of 24-hour out-of-home respite care. For example, if a child was placed in 24-hour out-of-home care from 5 p.m. Friday to 5 p.m. Sunday, the accrued time of respite care use would be 48 hours rather than 72.

It must be noted, however, that the proposed amendments establish a per diem means of determining the respite care fee and the per diem rate is not being modified to an hourly rate. Establishment of a per diem rate is consistent with Minnesota Statutes 252.27, which is the authority for setting fees for 24-hour out-of-home placement. The proposed fees do not establish rates for day care. The modification to the definition of "short term" does not apply to part 9550.6220, subpart 10a, item E which specifies that "any part of a day spent in 24-hour out-of-home respite care must be counted as a full day for purposes of establishing a fee."

CONCLUSIONS

I hereby conclude that:

1. The commissioner has statutory authority to promulgate these rule amendments.

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

3. The modification made to the proposed rule amendments are supported by data and views submitted to the Department and are not substantial changes.

4. The amendments, as modified, are necessary and reasonable.

4. Any duplication in these rule amendments of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect and properly administer them.

5. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

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

NOW, THEREFORE, IT IS ORDERED, that the rule amendments identified as Amendments to Rules of the Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-Of-Home Care, parts 9550.6210 and 9550.6220, (as modified) is adopted this 19 day of June, 1987, pursuant to authority vested in me by Minnesota Statutes 252.27.

Vicki Sleeper for
Sandra S. Gardebring
Commissioner of Human Services

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

In the Matter of the Proposed Amendments to Rules of the State Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-Of-Home Care, parts 9550.6210 and 9550.6220.

DECLARATION OF COUNSEL

I, Maureen W. Bellis, 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 0879.

Maureen W. Bellis
Special Assistant
Attorney General

Dated: June 24, 1987

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENTS TO ADOPTED RULES OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING PARENTAL FEES FOR CHILDREN PLACED IN 24-HOUR OUT-OF-HOME CARE, MINNESOTA RULES, PARTS 9550.6210 TO 9550.6220

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 22nd day of April, 1987.

Nancy Storlie

STATE OF MINNESOTA

STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION



Monday 27 April 1987

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edition of the National Electrical Code (NEC) as approved by the American National Standards Institute ~~(ANSI/NFPA 70-1984)~~ (ANSI/NFPA 70-1987), ~~with tentative interim amendment 70-84-2,~~ Minnesota Statutes, section 326.243, and the Minnesota State Building Code as promulgated by the commissioner of administration.

Subp. 2. [See Repealer.]

REPEALER. Minnesota Rules, parts 1315.0200, subpart 2, and 1315.0400, are repealed.

Department of Human Services

Proposed Permanent Rules Relating to Parental Fees for Children Placed in 24-Hour Out-of-Home Care

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 Veteran's Service Building, 5th Floor Cafeteria, 20 West 12th Street, St. Paul, Minnesota, on June 8, 1987, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule amendments, you are urged to participate in the 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 RULE AMENDMENTS 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 May 27, 1987 and June 7, 1987 at (612) 296-3979.

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 George Beck, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7601, 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 rule-making record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 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 9550.6210 and 9550.6220 are contained in adopted parts 9550.6200 to 9550.6240 which establish the fee parents must pay for a child placed in 24-hour out-of-home care. The proposed "respite care" amendments contained in parts 9550.6210 and 9550.6220 would treat the fee for 24-hour respite care separately from, and differently than, the fee for a long-term out-of-home placement. Part 9550.6210 adds a definition of "respite care" and part 9550.6220 provides a formula for the determination of a parental fee for respite care based on a per diem rather than a monthly basis.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 252.27.

Adoption of these rule amendments 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 Gordon Buyse, Social Services Division, Centennial Office Building, Fourth Floor, 658 Cedar Street, St. Paul, Minnesota 55155, Telephone 612/296-3979.

Copies of the proposed rule amendments are now available and at least one free copy may be obtained by writing to Gordon Buyse, Department of Human Services. The rule amendments are also available for viewing at each 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 amendments contact Gordon Buyse.

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

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 rule amendments. 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 then 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) 296-5148.

13 April 1987

Sandra S. Gardebring, Commissioner
Department of Human Services

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 amendments 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 amendments is contained in Minnesota Statutes, section 252.27.

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

Any person may make a written request for a public hearing on the amendment 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 amendment 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 June 8, 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 May 27, 1987 and June 7, 1987 at (612) 296-3979.

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.

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

Jane Nelson
Rulemaking Division
Department of Human Services
658 Cedar Street, Fourth Floor
St. Paul, MN 55155
Telephone: 612/297-1217

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 26, 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.

Parts 9550.6210 and 9550.6220 are contained in adopted parts 9550.6200 to 9550.6240 which establish the fee parents must pay for a child placed in 24-hour out-of-home care. The proposed "respite care" amendments contained in parts 9550.6210 and 9550.6220 would treat the fee for 24-hour respite care separately from, and differently than, the fee for a long-term out-of-home placement. Part 9550.6210 adds a definition of "respite care" and part 9550.6220 provides a formula for the determination of a parental fee for respite care based on a per diem rather than a monthly basis.

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

Gordon Buyse
Social Services Division
Centennial Office Building, Fourth Floor
658 Cedar Street
St. Paul, MN 55155
Telephone: 612/296-3979

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

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 Gordon Buyse on request.

As required by Minnesota Statutes, section 3.98, subdivision 2 and 14.11, the Department estimates that the total net cost to state and local agencies over the next two years as a result of the above proposed amendments will total less than $100,000 in either of the first two years following adoption. A copy of the fiscal note explaining the cost of the proposed amendments is available from Gordon Buyse. A copy of the fiscal note has been sent to the chair of each county board as required by Minnesota Statutes, section 256E.05, subdivision 3(c).

If no hearing is required upon adoption of the rule, the proposed rule amendments 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 amendments, must submit the written request to Jane Nelson.

13 April 1987

Sandra S. Gardebring, Commissioner
Department of Human Services

Rules as Proposed

9550.6210 DEFINITIONS.

Subpart 1. to 13. [Unchanged.]

Subp. 13a. **Respite care.** "Respite care" means short-term supervision and care provided to a child due to temporary absence or need for relief of the child's parents and involving the out-of-home care of a child for a minimum of a continuous 24-hour period of time. For purposes of this subpart, "short term" means a cumulative total of less than 90 24-hour days in a year.

Subp. 14. [Unchanged.]

9550.6220 DETERMINATION OF PARENTAL FEE.

Subpart 1. to 9. [Unchanged.]

Subp. 10. **Discharge.** Except as provided in subpart 10a, the full monthly parental fee must be assessed unless the child is

discharged and spends less than a full month in 24-hour out-of-home care. In this case, the full fee must be reduced only if the actual cost of care during that month is less than the regular fee.

Subp. 10a. **Parental fee for respite care.** When a child is placed in 24-hour out-of-home respite care, the parental fee must be a per diem fee multiplied by the number of days the child is in 24-hour out-of-home respite care. The per diem fee must be determined in the following manner:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. Using the household size and income figures in items A and B, the percentage schedule supplied by the department in subpart 4 must be used to determine the applicable percent to be applied to the parent's income.

D. Determine the per diem fee by multiplying the income from item B by the percent from item C and divide the product by 365.

E. Any part of a day spent in 24-hour out-of-home respite care must be counted as a full day for purposes of this fee.

F. The parental fee must be determined at the end of a month when respite care is used.

Subp. 11. to 14. [Unchanged.]

Board of Optometry

Proposed Permanent Rules Relating to Terms and Renewal of License

Rules as Proposed (all new material)

6500.2800 TERMS AND RENEWAL OF LICENSE.

Subpart 1. **Terms.** Each initial license issued by the board is valid from the date issued until renewed or terminated in accordance to procedures specified in this part. Each annually renewed license issued by the board is valid from January 1 of the year for which it is issued until renewed or terminated in accordance with the procedures specified in this part.

Subp. 2. **Renewal of application including information regarding continuing education and fees.** Each optometrist shall submit an application for renewal of license together with the necessary fee no later than December 31 of the year preceding that for which the license renewal is requested. Application for renewal will be considered timely if received by the board no later than December 31 or postmarked on December 31. If the postmark is illegible, the application will be considered timely if received in the board office via United States first class mail on the first workday after December 31. The application form must provide a place for the renewal applicant's signature and must solicit information to include but not be limited to the applicant's office address or addresses, the number of the applicant's license, and such other information that may be reasonably requested by the board.

For those licensees who have not submitted evidence of compliance with their three-year continuing education requirement or special course requirement set forth in parts 6500.0900 and 6500.1700, the board will include in its written notice relating to annual renewal that the licensee shall submit verified evidence of having taken the required number of continuing education credit hours listed in part 6500.0900 in order to have the license renewed.

Subp. 3. **Failure to submit renewal application.** The following procedures will be followed by the board for all licensees who have failed to submit the annual application in accordance with subpart 2, including information about continuing education and applicable fees as provided in subpart 5.

A. Any time after January 1, the board will send to the last address on file with the board, a notice to all licensees who have not made application for renewal of their license. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and the information required about continuing education as specified in subpart 2 which must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by submitting the renewal application and applicable fees and information required about continuing education, or by notifying the board that the licensee has voluntarily terminated the license will result in expiration of the license and terminating the right to practice.

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.



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

Ob note:
Our declaration of counsel is not signed. Contents have been reviewed and approved by our AG - but she was called out-of-town suddenly. Will submit this document by 6/26/87. J. Nelson

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

FROM: Jane Nelson, rules unit
Department of Human Services
4th Floor, Centennial Office Building

7-1217

SUBJECT: Review of a Rule Adopted Without a Public Hearing; In the Matter of the Proposed Amendments to Rules of the Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-of-Home Care, parts 9550.6210 and 9550.6220.

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.

No requests for notice of submission of the rule amendments to the attorney general were received.

If you have any questions on this submitted material, please call me at 297-1217.

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

In the Matter of the Proposed Amendments to Rules of the State Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-Of-Home Care, parts 9550.6210 and 9550.6220.

DECLARATION OF COUNSEL

I, , 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 .

_____
Special Assistant
Attorney General

Dated:

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : June 25, 1987

TO : RITA DESMOND
Legal Assistant
AG Office - Administration

FROM : MAUREEN W. BELLIS
Special Assistant
Attorney General

PHONE : 296-8998

SUBJECT : **Declaration of Counsel**

Enclosed please find the Declaration of Counsel in the Matter of the Proposed Amendments to Rules of the State Department of Human Services Governing Parental Fees for Children Placed in 24-Hour Out-Of-Home Care, parts 9550.6210 and 9550.6220.

MWB:kf

Encl.

cc: Jane Nelson, DHS Rules Unit

RECEIVED
ATTORNEY GENERAL'S OFFICE

JUN 26 1987

204 ADMINISTRATION BLDG
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

Comments

Request for Hearing - None

Rule

See proposed - Not all new material.

Adopted Rule - Change p 1 line 15
90 24hr days = 2160 hrs.

Notice of Intent

25662.05 subd 3(c) - complied - affidavit attached to affidavit of Addl Mailing

Authority 252.27

There is no rule making authority under 252.27
This statute does cover Cost of Boarding Care.

↓

INCorrect
authority is there - Subd 2