

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : December 12, 1988

TO : Dan Lipschultz
Dept. of Human Services
444 Lafayette Rd., St. Paul MN 55155

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General
515 DOT Bldg., St. Paul MN 55155

PHONE : 6-6839

SUBJECT : In the Matter of the Adopted Rule Relating to Reimbursement for Inpatient Hospital Services

The above-referenced rule has been approved as to its legality by the Attorney General on December 12, 1988.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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:bbl
Enclosures

cc: William Brown
Maryanne Hruby

MJC

Rush
approve 12/12
if possible

If approved, needs to be at Revisor on 12/12
Dan Lipschultz

File No. 1544

Docket No. 05.0009.0866

DATE RECEIVED 12/1/88

ADOPTED W/O HEARING _____

REVIEW DATE 12/10/88

EMERGENCY RULE _____

DUE DATE 12/15/88

REVISOR APPROVED _____

APPROVED 12/12/88

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE _____

WITHDRAWN _____

RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

~~3/4~~ ✓ Notice to Solicit Outside Information/Opinion (if applicable)

3/7/88 Date published in State Register
_____ Comments

_____ ~~Petition for Adoption of a Rule (if applicable)~~

_____ ~~Board's Authorizing Resolution~~

_____ ~~Date adopted~~

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

256.969 Subd 6 Statutory Authority
no Small Business Statement
yes Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness (if applicable)

no Small Business Statement
n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

9/28/88 Date 30/25 days before adoption
yes Notice attached
_____ ~~Copy of rule or summary attached~~

✓ Publication in State Register

10/3/88 Date 30/25 days before adoption

_____ 180-day deadline from:

11/3/88 end of comment period (§ 14.26) (rules without hearing)
_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

12/1/88 Date

✓ Written requests, submissions or comments (1)

✓ Declaration of attorney

N. Scott Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

Department of Human Services

Adopted Permanent Rules Relating to Reimbursement for Inpatient Hospital Services

Rules as Adopted

9500.1090 PURPOSE AND SCOPE.

Parts 9500.1090 to 9500.1155 establish a prospective reimbursement system for inpatient hospital services provided under medical assistance.

All provisions of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 6, shall apply to general assistance medical care substituting the terms and data for general assistance medical care for the terms and data referenced for medical assistance.

Effective January 1, 1987, reimbursements for medical assistance shall be partitioned into reimbursements for persons determined eligible for Aid to Families with Dependent Children or Aid to Families with Dependent Children extended medical coverage and for persons determined eligible for medical assistance on some other basis, including persons eligible because of receipt of Supplemental Security Income and Minnesota Supplemental Aid and persons eligible as medically needy.

9500.1095 STATUTORY AUTHORITY.

Parts 9500.1090 to 9500.1155 are authorized by Minnesota Statutes, section 256.969, subdivisions 2 and 6. Parts 9500.1090 to 9500.1155 must be read in conjunction with Titles XVIII and XIX of the Social Security Act, Code of Federal Regulations, title 42, Minnesota Statutes, chapters 256, 256B, and 256D, and parts 9505.0500 to 9505.0540.

9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

Subp. 20. **Diagnostic categories.** "Diagnostic categories" means the list of ~~diagnostic~~ diagnosis related groups in the

Approved by Revisor

diagnostic classification system established under Minnesota Statutes, section 256.969, subdivision 2, according to the ~~diagnostic~~ diagnosis related groups (DRGs) under medicare with adjustments as follows:

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. to NN. [Unchanged.]	

Subp. 21. [Unchanged.]

Subp. 21a. [See Repealer.]

Subp. 22. to 26. [Unchanged.]

Subp. 27. **Inpatient hospital service.** "Inpatient hospital service" means a service provided by or under the supervision of a physician after a recipient's admission to a hospital and furnished in the hospital for the care and treatment of the recipient. The inpatient hospital service may be furnished by a hospital, physician, or a vendor of an ancillary service which is prescribed by a physician and which is eligible for medical assistance or general assistance medical care reimbursement.

Subp. 28. [Unchanged.]

Subp. 29. **Medical assistance or MA.** "Medical assistance" or "MA" means the program established under Title XIX of the Social Security Act and Minnesota Statutes, chapter 256B. For purposes of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 6, "medical assistance" includes general assistance medical care unless otherwise specified.

Subp. 30. to 41. [Unchanged.]

Subp. 42. **Readmission.** "Readmission" means an admission that occurs within 15 days of a discharge of the same recipient. The 15-day period does not include the day of discharge or the day of readmission.

Subp. 43. to 49. [Unchanged.]

Subp. 50. **Transfer.** "Transfer" means the movement of a recipient after admission from one hospital directly to another.

Subp. 51. and 52. [Unchanged.]

9500.1130 REIMBURSEMENT PROCEDURES.

Subpart 1. to 3. [Unchanged.]

Approved
by Revisor _____

Subp. 4. **Adjustment to reimbursement.** Reimbursements shall be adjusted by the department for the reasons specified in subpart 5 and for inappropriate utilization as determined by the commissioner under parts 9505.0500 to 9505.0540 and parts 9505.1910 to 9505.2020 and as otherwise provided by law. Adjustment to a hospital's account shall be according to parts 9505.0500 to 9505.0540.

Subp. 5. **Rejection of claims.** Claims shall be rejected by the department for the reasons specified in items A and B.

A. Claims will not be reimbursed if the hospital fails to:

(1) obtain prior authorization;

(2) provide documentation of a confirming second surgical opinion;

(3) receive admission certification; or

(4) assign a claim to one of diagnostic categories in part 9500.1100, subpart 20.

B. Claims will not be reimbursed if inpatient hospital services <u>also covered under Medicare</u> have already been denied under Medicare<u>, on grounds other than medical necessity</u>.

Subp. 6. [Unchanged.]

Subp. 7. **Reimbursement for transfers.** Reimbursement for transfers shall be made as specified in items A and B.

A. [Unchanged.]

B. A discharging hospital is not eligible for a transfer reimbursement under item A for services provided to a discharged recipient if the admission to the discharging hospital was not due to an emergency, as defined in part 9505.0500, subpart 11, and the discharging hospital knew or had reason to know at the time of admission that the inpatient hospital services that were medically necessary for treatment of the recipient were outside the scope of the hospital's available services and the readmission to another hospital resulted because of the recipient's need for those services.

Subp. 8. **Reimbursement for readmissions.** An admission and readmission to the same or a different hospital shall be

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by Revisor _____

eligible for reimbursement according to the criteria in parts 9505.0500 to 9505.0540.

Subp. 9. to 12. [Unchanged.]

REPEALER. Minnesota Rules, part 9500.1100, subpart 21a is repealed.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

December 12 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Carsenby
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 12 1988 8:50 A.M.

Joan Anderson Growe
Secretary of State

Department of Human Services

Health Care and Residential Programs Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Permanent Rules Governing Community Alternative Care for Chronically Ill Individuals Under Age 65 Who Would Otherwise Reside in Acute Care Facilities

Notice is hereby given that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose adoption of a permanent rule governing community alternative care for chronically ill individuals under age 65 who would otherwise reside in an acute care facility. The adoption of the rule is authorized by *Minnesota Statutes*, section 256B.49, subdivision 2, which permits the commissioner to adopt permanent rules as necessary to implement section 256B.49, subdivision 1, authorizing the application for federal waivers necessary to obtain federal financial participation for the costs of home and community-based services.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Phyllis Zwieg
Long Term Care Management
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3831

Oral statements will be received during regular business hours over the telephone at (612) 296-2916, and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Department of Human Services

Health Care Programs Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing Hospital Medical Assistance Reimbursement

Notice is hereby given that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rules governing the readmission and reimbursement for readmissions, *Minnesota Rules*, parts 9500.1100 subpart 42, and 9500.1130 subpart 8.

The adoption of the rule is authorized by *Minnesota Statutes*, section 256.969, subdivision 6, which requires the agency to promulgate permanent rules to implement a system of prospective payment for inpatient hospital services.

The proposed amendments establish procedures to coordinate the medical assistance reimbursement for readmissions with the required procedures for obtaining hospital admission certification as set forth in *Minnesota Rules*, parts 9505.0500 to 9505.0540. (*Minnesota Rules*, parts 9505.0500 to 9505.0540 are being amended concurrently with the amendments to *Minnesota Rules*, parts 9500.1100 subpart 42 and 9500.1130 subpart 8).

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Anupama Seam
Rules Division
Minnesota Department of Human Services
444 Lafayette Rd. 2nd Floor South
St. Paul, MN 55101-3816

Oral statements will be received during regular business hours over the telephone at 612/297-4997 by Anupama Seam and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 29 February 1988

Minnesota Comprehensive Health Association

Executive Committee Meeting

Notice is hereby given that a meeting of the Executive Committee of the Minnesota Comprehensive Health Association will be held at 10:00 a.m. on Tuesday, March 8, 1988, at the Minnesota Club, Homer Clark Room, 317 Washington Street, St. Paul, Minnesota. For additional information, please call (612) 456-8466.

Minnesota Comprehensive Health Association

Legislative and Public Policy Committee Meeting

Notice is hereby given that a meeting of the Legislative and Public Policy Committee of the Minnesota Comprehensive Health Association will be held at 10:00 a.m. on Friday, March 11, 1988, at the Minnesota Education Association, Geste Meeting Room, 41 Sherburne Avenue, St. Paul, Minnesota, 55103.

Regional Transit Board

Regional Transit Board DBE and WBE Goals

The Regional Transit Board announces the following goals for federal fiscal year 1988 for disadvantaged and women business enterprise (DBE and WBE) participation in Urban Mass Transportation (UMTA) assisted projects: 10% for firms owned and controlled by socially and economically disadvantaged individuals; and 2% for women-owned and controlled firms.

The goals and a description of how they were set are available for inspection during normal business hours at the Regional Transit Board offices for 30 days following the date of this notice. Comments, which are for informational purposes only, may be sent to the Regional Transit Board, Suite 270 Metro Square Building, St. Paul, MN 55101 or the U.S. Department of Transportation, 400 7th St. SW., Washington, D.C. 20590, within 45 days from the date of this notice.

Department of Revenue

Information Systems Division

Notice to Solicit Outside Information

Request for Information for: Document Processing Hardware for Numbering, Data Capture, Image Capture, and Image Retrieval of tax documents received by the State of Minnesota, Department of Revenue. To request further information, or to receive a formal Request for Information, please contact the following:

Jack Fischer
Revenue Information Systems Division
Minnesota Department of Revenue
671 North Robert Street
St. Paul, Minnesota 55101
(612) 296-7049

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Department of Human Services Governing Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care, Parts 9500.1090 to 9500.1155

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 256.969, subdivision 6.

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 MONDAY, NOVEMBER 14, 1988, 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 November 3, 1988 and November 13, 1988 at (612) 297-4997

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 297-4997.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 2, 1988.

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: Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854. A copy of the proposed amended rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

The proposed amendments to these rules remove inconsistencies between this rule and Minnesota Rules, parts 9505.0500 to 9505.0540 which is a related medical assistance and general assistance medical care rule. Parts 9505.0500 to 9505.0540 outline the admission certification procedures which providers of Medical Assistance and General Assistance services have to follow to be eligible for reimbursement under parts 9500.1090 to 9500.1155.

The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "forseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854, 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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854.

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 Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816.

State of Minnesota

for Julie Brunner

SANDRA S. GARDEBRING
Commissioner

Dated: 9/6/88

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Department of Human Services Governing Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care Programs, Parts, 9500.1090 to 9500.1155	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 Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St.Paul, MN 55155, on November 14, 1988 commencing at 9:00 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 November 3, 1988 and November 13, 1988 at (612) 297-4997.

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 Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, 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, sections 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.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

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The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "forseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256.969, subdivision 6. 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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854. This rule is 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 contact Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 297-4997.

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) 296-5148.

for Julie Brunner
SANDRA S. GARDEBRING
Commissioner

Dated: 9/6/88

Department of Human Services

Proposed Permanent Rules Relating to Reimbursement for Inpatient Hospital Services

Rules as Proposed

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Effective January 1, 1987, reimbursements for medical assistance shall be partitioned into reimbursements for persons determined eligible for Aid to Families with Dependent Children or Aid to Families with Dependent Children extended medical coverage and for persons determined eligible for medical assistance on some other basis, including persons eligible because of receipt of Supplemental Security Income and Minnesota Supplemental Aid and persons eligible as medically needy.

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9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

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Approved by Revisor

diagnostic related groups in the diagnostic classification system established under Minnesota Statutes, section 256.969, subdivision 2, according to the diagnostic related groups (DRGs) under medicare with adjustments as follows:

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
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Subp. 21a. [See Repealer.]

Subp. 22. to 26. [Unchanged.]

Subp. 27. **Inpatient hospital service.** "Inpatient hospital service" means a service provided by or under the supervision of a physician after a recipient's admission to a hospital and furnished in ~~a~~ the hospital for the care and treatment of ~~a~~ the recipient. The inpatient hospital service may be furnished by a hospital, physician, or a vendor of an ancillary service which is prescribed by a physician and which is eligible for medical assistance or general assistance medical care reimbursement.

Subp. 28. [Unchanged.]

Subp. 29. **Medical assistance or MA.** "Medical assistance" or "MA" means the program established under Title XIX of the Social Security Act and Minnesota Statutes, chapter 256B. For purposes of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 6, "medical assistance" includes general assistance medical care unless otherwise specified.

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9500.1130 REIMBURSEMENT PROCEDURES.

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Approved by Revisor _____

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~~A.~~ (1) obtain prior authorization;

~~B.~~ (2) provide documentation of a confirming second surgical opinion;

~~C.~~ (3) receive admission certification; ~~and~~ or

~~D.~~ (4) assign a claim to one of diagnostic categories ~~A to II~~ in part 9500.1100, subpart 20.

B. Claims will not be reimbursed if inpatient hospital services have already been denied under Medicare.

Subp. 6. [Unchanged.]

Subp. 7. **Reimbursement for transfers.** Reimbursement for transfers shall be made as specified in items A and B.

A. [Unchanged.]

B. A discharging hospital is not eligible for a transfer reimbursement under item A for services provided to a discharged recipient if ~~one of the following conditions exists:~~

~~(1) the failure of the discharging hospital to provide all inpatient hospital services that are medically necessary to treat a condition that could or should have been treated during the initial admission or to treat a foreseeable complication of the original diagnoses; or~~

~~(2)~~ the admission to the discharging hospital was not due to an emergency, ~~(~~as defined in part 9505.0500, subpart 11~~) admission~~, and the discharging hospital knew or had reason to know at the time of admission that the inpatient hospital services that were

Approved by Revisor _____

medically necessary for treatment of the recipient were outside the scope of the hospital's available services and the readmission to another hospital resulted because of the recipient's need for those services.

Subp. 8. **Reimbursement for readmissions.** An admission and readmission to the same or a different hospital ~~for the treatment of a condition that could or should have been treated during the initial admission, or for the treatment of complications of the original diagnoses, shall be reimbursed with one applicable categorical rate per admission and as an outlier if eligible. The combined stay of the admission and readmission shall be used to determine eligibility for outlier reimbursement. If the readmission to the same hospital is for a condition unrelated to the previous admission, including an episodic illness such as asthma or uncontrolled diabetes mellitus, the admission and readmission shall be reimbursed separately with the applicable categorical rate per admission, out of area hospital categorical rate per admission, categorical rate per admission for MSA and non MSA hospitals statewide that do not have admissions in the base year, transfer reimbursement, or rate per admission. An admission and subsequent readmission to a different hospital shall be reimbursed as specified under subpart 7 when the readmission is for the treatment of a condition that could or should have been treated during the initial admission, or for the treatment of foreseeable complications of the original diagnoses. If the readmission to a different hospital is due to a condition that is unrelated to the condition treated during the previous admission, including an episodic illness, the admission and readmission shall be reimbursed separately with the applicable categorical rate per admission, out of area hospital categorical rate per admission, categorical rate per admission for MSA and non MSA hospitals statewide that do not have admissions in the base year, transfer reimbursement, or rate per admission~~ shall be eligible for reimbursement according to the criteria in parts 9505.0500 to 9505.0540.

Approved by Revisor _____

Subp. 9. to 12. [Unchanged.]

REPEALER. Minnesota Rules, part 9500.1100, subpart 21a is repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Reimbursement for Inpatient Hospital Services

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9500

The attached rules are approved for publication in the State Register

Kathleen M. Traxler
Assistant Revisor

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO RULES OF THE MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING IMPATIENT HOSPITAL REIMBURSEMENT UNDER MEDICAL ASSISTANCE AND GENERAL ASSISTANCE MEDICAL CARE, PARTS 9500.1090 to 9500.1155

STATEMENT OF NEED AND REASONABLENESS

Minnesota Rules, parts 9500.1090 to 9500.1155 establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance (MA) and General Assistance Medical Care (GAMC) Programs. The reimbursement system established by these rules promotes cost containment without negative effects on patient care, by offering financial incentives for efficient and economical hospital operations. Minnesota Statutes, section 256.969 subdivision 2, mandates that inpatient hospital reimbursement under the MA and GAMC Programs be based upon a diagnostic classification. These rules contain definitions of terms; provisions governing the determination of relative values; determination of allowable base year cost per admission; determination of the annual cost index; determination of reimbursement rates; reimbursement procedures; and appeal procedures.

In 1983 the Legislature directed the Commissioner of Human Services to promulgate temporary and permanent rules to implement Laws of Minnesota 1983, chapter 312, article 5, sections 9 and 39 which establish a prospective reimbursement system for MA and GAMC inpatient hospital services. In response to the legislative mandate, the Department published 12 MCAR sections 2.05401-2.05403 (Temporary) in the State Register on August 1, 1983. The temporary rule became effective on October 1, 1983. The temporary rule was continued in effect for an additional 180 days under Minnesota Statutes, section 14.35. It was again continued in effect until August 1, 1985.

To develop permanent rules, the Department worked closely with hospital representatives. A modified diagnosis related groups (DRGs) reimbursement system similar to the Medicare Program was implemented. The permanent rules were adopted on August 1, 1985 and amended on March 24, 1987.

Since adopting these rules and the amendments to them, the Department has identified some additional areas of the rules that need to be amended. The need for these amendments arises from inconsistencies with the related Admission Certification rule, parts 9505.0500 to 9505.0540 (Rule 48), which outlines the procedures to be followed in order to be eligible for reimbursement under parts 9500.1090 to 9500.1155. To avoid confusion, it is imperative that Rule 48 be read in conjunction and consistent with these rules.

The department solicited the opinion of an advisory committee before and during the preparation of the proposed amendments to the rules. The committee was composed of representatives from the Minnesota Medical Association, Minnesota Hospital Association, Council of Hospital Corporations, and individual hospitals. The committee also included the medical review agent and utilization review specialists. (See appendix A for committee membership.) The committee met on December 2, 1987, February 4, 1988, and March 4, 1988 to review the amendments proposed by the department. Members of the committee supported the department's desire to address these concerns.

The proposed amended rules, designated as, parts 9500.1095 to 9500.1155 are hereby affirmatively presented by the Department as required by Minnesota Statutes, section 256.969 and in accordance with the provisions of the Minnesota Administrative Procedures Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings.

Part 9500.1090. PURPOSE AND SCOPE

It is necessary to replace 9500.1155 subpart 5 with 9500.1155 subpart 6 in order to correct a typographical error. This amendment is reasonable because Laws of Minnesota 1982, Third Special Session, chapter 1, article 2, section 2, subdivision 4, paragraph (a), clause (4) require that the 4% reduction rule apply only to medical assistance reimbursement.

Part 9500.1095. STATUTORY AUTHORITY

It is necessary to inform providers and recipients that this rule should be read in conjunction with the admission certification rule, i.e. parts 9505.0500 to 9505.0540 (Rule 48). This amendment is reasonable because providers must follow the procedures set forth in and obtain the approvals required under the admission certification rule (Rule 48) before they can be reimbursed under these rules for inpatient hospital services provided by them.

Part 9500.1100. DEFINITIONS

The proposed amendments to the definitions are necessary to clarify the meaning of terms which may be subject to multiple interpretations, and to be consistent with medical usage, statutes and other related rules.

Subp. 20. Diagnostic categories. The definition of "diagnostic categories" has been amended to be consistent with the definition of diagnostic category in the admission certification rule (Rule 48). There is no change in the meaning of this term. This amendment is necessary and reasonable because the present rule must be read in conjunction with Rule 48 (refer to SNR for part 9500.1095), and consistent definitions minimize the risk of confusion for providers and recipients.

Subp. 21a. Foreseeable complication. It is reasonable and necessary to delete this definition because the text of the rule that it related to has been deleted (refer to 9505.1130 subparts 7 and 8).

Subp. 27. Inpatient hospital services. It is necessary to amend this subpart to include the term "hospital" to be consistent with the definition in Rule 48. It is reasonable that services which are medically necessary may be furnished by the hospital as well as the physician or other vendor during a recipient's inpatient hospital stay. It is necessary to clarify that inpatient hospital services are those provided after the recipient is admitted to the hospital and hospital services are made available to the recipient on a continuous 24-hour-a-day basis. This amendment is reasonable because it is consistent with common medical usage and with parts 9505.0170 to 9505.0475 (Rule 47), which govern provider eligibility to receive medical assistance payments.

Subp. 29. Medical assistance or MA. The amendment is necessary because it identifies the funding programs that come under the purview of this rule and clarifies that GAMC is one of the funding sources and is included in all references to MA throughout this rule. Minnesota Statutes, section 256D.03, subd. 7(b) requires the department to establish standards for reimbursement in the GAMC program that conform to procedures established for the Medical Assistance program. It is reasonable to use one term in order to delete unnecessary words in a reference frequently repeated in the rule. It is necessary and reasonable to exclude part 9500.1155 subpart 6 from this definition because the 4% reduction rule does not apply to the GAMC program. It is also necessary and reasonable to amend this definition because it is consistent with 9505.0500 to 9505.0540 (Rule 48).

Subp. 42. Readmission. It is necessary to broaden the time frame for readmissions because of the complexity of medical care and the potential for fragmented care caused by the incentive to discharge and readmit, which is inherent in the per admission prospective payment system. The extended time frame also serves as a safeguard against unnecessary, inappropriate or underutilization of services. A broader time frame allows more thorough detection of such occurrences. The amendment is also reasonable because it is consistent with the definition of readmission in parts 9505.0500 to 9505.0540 (Rule 48) and the Medicare prospective payment system which expanded the review of readmissions from 7 to 15 days.

Subp. 50. Transfer. This amendment is necessary to clarify that a transfer is a situation in which a recipient is transported directly from one hospital to another with no change in the level of care provided. The word "directly" has the meaning given to it in the American Heritage Dictionary (The American Heritage Dictionary, Second College Edition, 1985), i.e. without intervening persons, conditions, or agencies; immediate. A direct transfer occurs when the hospital codes the recipient's disposition status as discharged to another hospital. It is reasonable because not all recipients treated for inpatient hospital services receive the entire treatment for an episode in one hospital.

Although direct transfers are technically readmissions, it is necessary and reasonable to differentiate them from readmission situations in which a change in the level care between discharge and readmission has occurred for purposes of coding claims and retaining consistent data and for record keeping within the hospital.

Part 9500.1130. REIMBURSEMENT PROCEDURES

Subp. 4. Adjustment to reimbursement. It is necessary to clarify the criteria used for determining adjustments to reimbursement. It is reasonable to refer to parts 9505.0500 to 9505.0540 (Rule 48) as standards for determining the appropriateness of utilization because they include the admission certification process, criteria for determining medical necessity, transfers and readmissions.

It is necessary and reasonable to inform the providers of the methods that the Department will use for recovery and adjustment and to refer to part 9505.0520 to 9505.0540 which set forth the methods of adjusting reimbursement.

Subp. 5. Rejection of claims. It is necessary to clarify when claims will not be reimbursed for Medicare eligible recipients. The amendment is reasonable because services which have been certified as medically necessary under the Medicare

program are exempt from the MA admission certification process. This is reasonable and necessary because Medicare has established an admission certification process which is essentially similar to the MA process. Similarly, the denial of inpatient hospital services under Medicare also means a denial of the service under MA because there has already been a determination that the services are not medically necessary. This amendment is also reasonable because it is consistent with the provision for exclusion from admission certification in part 9505.0520, subp. 2, item B (Rule 48).

Subp. 7. Reimbursement for transfers. It is necessary to clarify transfer reimbursement criteria for providers. It is reasonable that the amendment delete the existing criteria for transfer situations because more comprehensive criteria related to transfer situations have been added to part 9505.0540, subparts 3 - 6 (Rule 48). These criteria address transfer situations, and referrals to different hospitals. (Refer to SNR for part 9505.0540, subparts 3 to 6.)

Subp. 8. Reimbursement for readmissions. It is necessary to clarify the criteria used by the department for reimbursing providers for readmissions to the same or different hospital. It is reasonable that the amendment delete all criteria currently in this rule regarding readmission situations as comprehensive criteria for readmissions have been added in part 9505.0540, subparts 3 to 6 (Rule 49) establishing standards for admission certification in readmissions situations and thereby making them eligible for payment under parts 9500.1100-9500.1155 (Rule 54).

The readmissions criteria were developed by a special task force composed of hospital utilization review professionals, the medical review agent and the Department. The establishment of readmission criteria was necessary because the present payment system creates an incentive for hospitals to discharge and readmit patients, thereby collecting additional payments. However, hospitals should be financially indifferent to discharging and readmitting recipients because those are medical decisions. The present criteria served as a foundation for the amended criteria, which is more comprehensive and easier to implement. The criteria are designed to encompass all circumstances that may arise in readmission situations and to serve as a screen for physician review. The readmission criteria differentiate between readmissions which will be considered as second admissions and for which the provider will be paid separately, readmissions which will be considered as continuous with the first admission and for which the provider will be eligible for only one DRG payment, and readmissions which will be considered as transfers and for which the provider will be eligible for a transfer payment. The readmission criteria will function as safeguards against unnecessary or inappropriate use of medical assistance services, excess payments and under-

utilization such as fragmented care and premature discharge as required by Minnesota Statutes, section 256B.04, subdivision 15. (See also SNR for part 9505.0540, subp. 3 to 6.)

The Department will not present expert witnesses to testify concerning the provisions of these proposed rules on behalf of the department.

September 7, 1988

Julie Brunner

for SANDRA GARDEBRING, Commissioner
Department of Human Services

Appendix A

MEMBERS OF RULE 48 AMENDMENTS ADVISORY COMMITTEE

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Quality Assurance/Medical Records
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#520-5048

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO RULES OF THE DEPARTMENT OF HUMAN SERVICES GOVERNING INPATIENT HOSPITAL REIMURSEMENT UNDER MEDICAL ASSSTANCE AND GENERAL ASSISTANCE MEDICAL CARE PROGRAMS

AFFIDAVIT OF MAILING

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

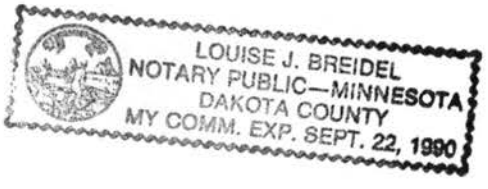
That on the 28th day of September, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notices by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations 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 28th day of Sept., 1988

Louise J. Breidel



STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Department of Human Services Governing Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care Programs, Parts, 9500.1090 to 9500.1155	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 Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St.Paul, MN 55155, on November 14, 1988 commencing at 9:00 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 November 3, 1988 and November 13, 1988 at (612) 297-4997.

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 Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, 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, sections 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.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

The proposed amendments to these rules remove inconsistencies between this rule and Minnesota Rules, parts 9505.0500 to 9505.0540 which is a related medical assistance and general assistance medical care rule. Parts 9505.0500 to 9505.0540 outline the admission certification procedures which providers of Medical Assistance and General Assistance services have to follow to be eligible for reimbursement under parts 9500.1090 to 9500.1155.

The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "forseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256.969, subdivision 6. 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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854. This rule is 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 contact Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 297-4997.

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) 296-5148.

for Julie Brunner
SANDRA S. GARDEBRING
Commissioner

Dated: 9/6/88

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Department of Human Services Governing Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care, Parts 9500.1090 to 9500.1155

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 256.969, subdivision 6.

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 MONDAY, NOVEMBER 14, 1988, 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 November 3, 1988 and November 13, 1988 at (612) 297-4997

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 297-4997.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 2, 1988.

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: Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854. A copy of the proposed amended rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

The proposed amendments to these rules remove inconsistencies between this rule and Minnesota Rules, parts 9505.0500 to 9505.0540 which is a related medical assistance and general assistance medical care rule. Parts 9505.0500 to 9505.0540 outline the admission certification procedures which providers of Medical Assistance and General Assistance services have to follow to be eligible for reimbursement under parts 9500.1090 to 9500.1155.

The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "forseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854, 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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854.

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 Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816.

State of Minnesota

for Julie Brunner
SANDRA S. GARDEBRING
Commissioner

Dated: 9/6/88

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO DEPARTMENT OF HUMAN SERVICES RULES GOVERNING INPATIENT HOSPITAL REIMBURSEMENT UNDER MEDICAL ASSISTANCE AND GENERAL ASSISTANCE MEDICAL CARE PROGRAMS

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 28th day of September, 1988, 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
-Rule 54 Advisory Committee
-Individual Hospitals
-Border Medical Association
-Border Hospital Association

Nancy Storelee

Subscribed and sworn to before me

this 28th day of Sept., 1988

Louise J. Breidel

LOUISE J. BREIDEL
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
MY COMM. EXP. SEPT. 22, 1990

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Department of Human Services Governing Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care, Parts 9500.1090 to 9500.1155

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

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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 MONDAY, NOVEMBER 14, 1988, 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 November 3, 1988 and November 13, 1988 at (612) 297-4997

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 297-4997.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 2, 1988.

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: Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854. A copy of the proposed amended rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

The proposed amendments to these rules remove inconsistencies between this rule and Minnesota Rules, parts 9505.0500 to 9505.0540 which is a related medical assistance and general assistance medical care rule. Parts 9505.0500 to 9505.0540 outline the admission certification procedures which providers of Medical Assistance and General Assistance services have to follow to be eligible for reimbursement under parts 9500.1090 to 9500.1155.

The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "forseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854, 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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854.

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 Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816.

State of Minnesota

for Julie Brunner
SANDRA S. GARDEBRING
Commissioner

Dated: 9/6/88

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Department of Human Services Governing Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care Programs, Parts, 9500.1090 to 9500.1155	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 Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St.Paul, MN 55155, on November 14, 1988 commencing at 9:00 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 November 3, 1988 and November 13, 1988 at (612) 297-4997.

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 Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, 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, sections 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.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

The proposed amendments to these rules remove inconsistencies between this rule and Minnesota Rules, parts 9505.0500 to 9505.0540 which is a related medical assistance and general assistance medical care rule. Parts 9505.0500 to 9505.0540 outline the admission certification procedures which providers of Medical Assistance and General Assistance services have to follow to be eligible for reimbursement under parts 9500.1090 to 9500.1155.

The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "forseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256.969, subdivision 6. 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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St.Paul, MN 55155-3816, telephone (612) 296-2854. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

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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

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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.

for Julie Brunner
SANDRA S. GARDEBRING
Commissioner

Dated: 9/6/88

Subp. 5. **Documentation required.** A provider who believes a surgical procedure is exempt from the second and third opinion requirement under part 9505.5040 must submit supporting documentation with the request for exemption. If the provider requests approval of the exemption before performing the procedure, the department or medical review agent, as appropriate, may withhold approval of the exemption until the provider has submitted the documentation.

9505.5100 INDEPENDENT PHYSICIAN EVALUATION.

The commissioner shall have the right to order an independent evaluation by a physician selected by the recipient and approved by the commissioner when the commissioner has reason to believe, based on parts 9505.1750 to 9505.2150, that the requested surgical procedure is not ~~necessary~~ medically appropriate. If the recipient needs assistance locating an appropriate physician, the services of the local county medical society, or any other physician referral resource may be ~~utilized~~ used. If the selected physician determines the procedure is not ~~necessary~~ medically appropriate, the commissioner shall deny authorization.

9505.5105 FAIR HEARINGS AND APPEALS.

Subpart 1. **Appealable actions.** A recipient may appeal any of the following department actions:

A. the ~~department has failed~~ department's failure to act with reasonable promptness on a request for prior authorization or on an authorization request under the second surgical opinion program, as established under parts 9505.5020, subpart 1, and 9505.5090;

B. the ~~department has denied~~ department's denial of a request for prior authorization;

C. the ~~department has denied~~ department's denial of an authorization request under the second surgical opinion program; or

D. the ~~department has~~ department's proposed ~~a~~ reduction in service as an alternative to authorization of a proposed service for which prior authorization was requested.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Commissioner's ruling.** Within 90 days of the date of receipt of the recipient's request for a hearing, the commissioner shall make a ruling to uphold, reverse, or modify the action or decision of the department or the medical review agent. The commissioner's ruling shall be binding upon the department and the recipient unless a request for judicial review is filed pursuant to *Minnesota Statutes*, section 256.045, subdivision 7.

REPEALER. *Minnesota Rules*, part 9505.5095, is repealed.

Department of Human Services

Proposed Permanent Rules Relating to Reimbursement for Inpatient Hospital 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 Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155, on November 14, 1988 commencing at 9:00 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 November 3, 1988 and November 13, 1988 at (612) 297-4997.

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be included in the hearing record may be mailed to Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, 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,* sections 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.

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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

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 256.969 and section 256.969, subdivision 6.

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 MONDAY, NOVEMBER 14, 1988, 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 November 3, 1988 and November 13, 1988 at (612) 297-4997.

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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.

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Sandra S. Gardebring
Commissioner

Rules as Proposed

9500.1090 PURPOSE AND SCOPE.

Parts 9500.1090 to 9500.1155 establish a prospective reimbursement system for inpatient hospital services provided under medical assistance.

All provisions of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart ~~5~~ 6, shall apply to general assistance medical care substituting the terms and data for general assistance medical care for the terms and data referenced for medical assistance.

Effective January 1, 1987, reimbursements for medical assistance shall be partitioned into reimbursements for persons determined eligible for Aid to Families with Dependent Children or Aid to Families with Dependent Children extended medical coverage and for persons determined eligible for medical assistance on some other basis, including persons eligible because of receipt of Supplemental Security Income and Minnesota Supplemental Aid and persons eligible as medically needy.

9500.1095 STATUTORY AUTHORITY.

Parts 9500.1090 to 9500.1155 are authorized by *Minnesota Statutes,* section 256.969, subdivisions 2 and 6. Parts 9500.1090 to 9500.1155 must be read in conjunction with Titles XVIII and XIX of the Social Security Act, Code of Federal Regulations, title 42, ~~and~~ *Minnesota Statutes,* chapters 256, 256B, and 256D, and parts 9505.0500 to 9505.0540.

9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

Subp. 20. **Diagnostic categories.** "Diagnostic categories" means the ~~classification of inpatient hospital services~~ list of diagnostic related groups in the diagnostic classification system established under *Minnesota Statutes,* section 256.969, subdivision 2, according to the diagnostic related groups (DRGs) under medicare with adjustments as follows:

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. to NN. [Unchanged.]	

Subp. 21. [Unchanged.]

Subp. 21a. [See Repealer.]

Subp. 22. to 26. [Unchanged.]

Subp. 27. **Inpatient hospital service.** "Inpatient hospital service" means a service provided by or under the supervision of a physician after a recipient's admission to a hospital and furnished in ~~a~~ the hospital for the care and treatment of ~~a~~ the recipient. The inpatient hospital service may be furnished by a hospital, physician, or a vendor of an ancillary service which is prescribed by a physician and which is eligible for medical assistance or general assistance medical care reimbursement.

Subp. 28. [Unchanged.]

Subp. 29. **Medical assistance or MA.** "Medical assistance" or "MA" means the program established under Title XIX of the Social Security Act and *Minnesota Statutes,* chapter 256B. For purposes of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 6, "medical assistance" includes general assistance medical care unless otherwise specified.

Subp. 30. to 41. [Unchanged.]

Subp. 42. **Readmission.** "Readmission" means an admission that occurs within ~~seven~~ 15 days of a discharge of the same recipient. The 15-day period does not include the day of discharge or the day of readmission.

Subp. 43. to 49. [Unchanged.]

Subp. 50. **Transfer.** "Transfer" means the movement of a recipient after admission from one hospital directly to another.

Subp. 51. and 52. [Unchanged.]

9500.1130 REIMBURSEMENT PROCEDURES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Adjustment to reimbursement.** Reimbursements shall be adjusted by the department for the reasons specified in subpart 5 and for inappropriate utilization as determined by the commissioner under parts 9505.0500 to 9505.0540 and parts 9505.1910 to 9505.2020 and as otherwise provided by law. Adjustment to a hospital's account shall be ~~by debit~~ according to parts 9505.0500 to 9505.0540.

Subp. 5. **Rejection of claims.** Claims shall be rejected by the department for the reasons specified in items A and B.

A. Claims will not be reimbursed ~~for a hospital's failure~~ if the hospital fails to:

~~A.~~ (1) obtain prior authorization;

~~B.~~ (2) provide documentation of a confirming second surgical opinion;

~~C.~~ (3) receive admission certification; ~~and~~ or

~~D.~~ (4) assign a claim to one of diagnostic categories ~~A to H~~ in part 9500.1100, subpart 20.

B. Claims will not be reimbursed if inpatient hospital services have already been denied under Medicare.

Subp. 6. [Unchanged.]

Subp. 7. **Reimbursement for transfers.** Reimbursement for transfers shall be made as specified in items A and B.

A. [Unchanged.]

B. A discharging hospital is not eligible for a transfer reimbursement under item A for services provided to a discharged recipient if ~~one of the following conditions exists:~~

~~(1) the failure of the discharging hospital to provide all inpatient hospital services that are medically necessary to treat a condition that could or should have been treated during the initial admission or to treat a foreseeable complication of the original diagnoses; or~~

~~(2) except in the case of an~~ the admission to the discharging hospital was not due to an emergency, ~~(as defined in part~~ 9505.0500, subpart 11~~)~~ ~~admission~~, and the discharging hospital knew or had reason to know at the time of admission that the inpatient hospital services that were medically necessary for treatment of the recipient were outside the scope of the hospital's available services and the readmission to another hospital resulted because of the recipient's need for those services.

Subp. 8. **Reimbursement for readmissions.** An admission and readmission to the same or a different hospital ~~for the treatment of a condition that could or should have been treated during the initial admission, or for the treatment of complications of the original diagnoses, shall be reimbursed with one applicable categorical rate per admission and as an outlier if eligible. The combined stay of the admission and readmission shall be used to determine eligibility for outlier reimbursement. If the readmission to the same hospital is for a condition unrelated to the previous admission, including an episodic illness such as asthma or uncontrolled diabetes mellitus, the admission and readmission shall be reimbursed separately with the applicable categorical rate per admission; out-of-area hospital categorical rate per admission; categorical rate per admission for MSA and non-MSA hospitals statewide that do not have admissions in the base year; transfer reimbursement; or rate per admission. An admission and subsequent readmission to a different hospital shall be reimbursed as specified under subpart 7 when the readmission is for the treatment of a condition that could or should have been treated during the initial admission, or for the treatment of foreseeable complications of the original diagnoses. If the readmission to a different hospital is due to a condition that is unrelated to the condition treated during the previous admission, including an episodic illness, the admission and readmission shall be reimbursed separately with the applicable categorical~~

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.

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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854, 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 Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854.

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 Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816.

Sandra S. Gardebring
Commissioner

Rules as Proposed

9500.1090 PURPOSE AND SCOPE.

Parts 9500.1090 to 9500.1155 establish a prospective reimbursement system for inpatient hospital services provided under medical assistance.

All provisions of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart ~~5~~ 6, shall apply to general assistance medical care substituting the terms and data for general assistance medical care for the terms and data referenced for medical assistance.

Effective January 1, 1987, reimbursements for medical assistance shall be partitioned into reimbursements for persons determined eligible for Aid to Families with Dependent Children or Aid to Families with Dependent Children extended medical coverage and for persons determined eligible for medical assistance on some other basis, including persons eligible because of receipt of Supplemental Security Income and Minnesota Supplemental Aid and persons eligible as medically needy.

9500.1095 STATUTORY AUTHORITY.

Parts 9500.1090 to 9500.1155 are authorized by *Minnesota Statutes,* section 256.969, subdivisions 2 and 6. Parts 9500.1090 to 9500.1155 must be read in conjunction with Titles XVIII and XIX of the Social Security Act, Code of Federal Regulations, title 42, ~~and~~ *Minnesota Statutes,* chapters 256, 256B, and 256D, and parts 9505.0500 to 9505.0540.

9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

Subp. 20. **Diagnostic categories.** "Diagnostic categories" means the ~~classification of inpatient hospital services~~ list of diagnostic related groups in the diagnostic classification system established under *Minnesota Statutes,* section 256.969, subdivision 2, according to the diagnostic related groups (DRGs) under medicare with adjustments as follows:

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. to NN. [Unchanged.]	

Subp. 21. [Unchanged.]

Subp. 21a. [See Repealer.]

Subp. 22. to 26. [Unchanged.]

Subp. 27. **Inpatient hospital service.** "Inpatient hospital service" means a service provided by or under the supervision of a physician after a recipient's admission to a hospital and furnished in ~~a~~ the hospital for the care and treatment of ~~a~~ the recipient. The inpatient hospital service may be furnished by a hospital, physician, or a vendor of an ancillary service which is prescribed by a physician and which is eligible for medical assistance or general assistance medical care reimbursement.

Subp. 28. [Unchanged.]

Subp. 29. **Medical assistance or MA.** "Medical assistance" or "MA" means the program established under Title XIX of the Social Security Act and *Minnesota Statutes,* chapter 256B. For purposes of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 6, "medical assistance" includes general assistance medical care unless otherwise specified.

~~rate per admission; out-of-area hospital categorical rate per admission; categorical rate per admission for MSA and non-MSA hospitals statewide that do not have admissions in the base year; transfer reimbursement; or rate per admission~~ shall be eligible for reimbursement according to the criteria in parts 9505.0500 to 9505.0540.

Subp. 9. to 12. [Unchanged.]

REPEALER. *Minnesota Rules,* part 9500.1100, subpart 21a is repealed.

Department of Human Services

Proposed Permanent Rules Relating to Physician and Hospital Certification for Payment of Medical Assistance and General Assistance Medical Care for Inpatient Hospital 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 Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155, on November 14, 1988 commencing at 9:00 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 November 3, 1988 and November 13, 1988 at (612) 297-4997.

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 Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, 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,* sections 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.

Minnesota Rules, Parts 9505.0500 to 9505.0540, establish a system for reviewing the utilization of inpatient hospital services under the Medical Assistance and General Medical Care programs. These rules are designed to guard against excess payments and to reduce expenditures which result from inappropriate hospitalization of MA and GAMC recipients.

Besides persons receiving MA and GAMC services, this rule affects providers of MA/GAMC services who are responsible for following the procedures specified in the rule, and the medical review agent who is responsible for reviewing the necessity of admissions and the appropriateness of the surgical services provided.

The proposed amendments to these rules remove inconsistencies between this rule and *Minnesota Rules,* parts 9500.1090 to 9500.1155, which is a related medical assistance and general assistance medical care rule. Parts 9500.1090 to 9500.1155 govern the reimbursement for inpatient hospital services to be provided to Medical Assistance and General Assistance Medical Care recipients, and have to be read in conjunction with the present rule.

The amendments expand the time frame for readmissions and clarify the criteria for a readmission considered as a second admission, a readmission considered as continuous with the first admission, and a readmission considered as a transfer. The amendments also specify procedures to be followed by providers of Medical Assistance and General Assistance Medical Care to be eligible for reimbursement, and incorporate the second surgical opinion process into the admission certification process.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments of Rules of the State Department of Human Services Governing Inpatient Hospital Reimbursement in the Medical Assistance and General Assistance Medical Care Programs, Minnesota Rules, Parts 9500.1090 to 9500.1155

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 October 3, 1988, 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 September 28, 1988. 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. No requests for a public hearing on the rule were received within the time period stated in the notice published in the State Register. Therefore, the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn. No requests for notice of submission to the attorney general were received by the agency. Written comments were received by the agency from Mr. Vern Silvernale, Vice President, Health Care Finance, Minnesota Hospital Association, within the time period stated.

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

1. Part 9500.1100, subpart 20, "Diagnostic categories".

The Department received a verbal comment that the term "diagnostic related groups" used in this definition is technically inaccurate and should be corrected to "diagnosis related groups".

The Department agrees that the correct technical term is "diagnosis related groups", and finds it necessary and reasonable to accept the request to make the technical correction as follows :

"Diagnostic categories" means the ~~classification of inpatient hospital services~~ list of ~~diagnostic~~ diagnosis related groups in the diagnostic classification system established under Minnesota Statutes, section 256.969, subdivision 2, according to the ~~diagnostic~~ diagnosis related groups under medicare with adjustments as follows :

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. to NN. (Unchanged).	

The Department finds the modification is not substantial but only corrects a technical error.

2. 9500.1130, subpart 5, item B.

Mr. Vern Silvernale commented that "the language of this subpart would limit the Department to the same services that are provided by Medicare. Because the Medicaid program covers services not covered under Medicare, I would recommend changing the language to allow for a clearer understanding of the services being denied". He suggested that the Department modify the language of this provision to read : "Claims will not be reimbursed for covered Medicare inpatient hospital services that have already been denied under Medicare".

In another comment on the related inpatient hospital certification rule (part 9505.0520, subpart 2, item B), Mr. Silvernale also suggested that the policy of third party payment be made consistent with the policy stated in the second surgical opinion rule (part 9505.5015, subp.4).

The Department accepts both suggestions. The Department carefully considered the language suggested by Mr. Silvernale but felt that further clarification was necessary to avoid any confusion regarding claims which will not be reimbursed. The above provision was proposed as an amendment to parts 9500.1090 to 9500.1155. It is further modified as follows :

"Claims will not be reimbursed if inpatient hospital services also covered under Medicare have already been denied under Medicare on grounds other than medical necessity".

This modification is necessary and reasonable to ensure consistency between the present reimbursement rule and the related admission certification (parts 9505.0500 to 9505.0540) and second surgical opinion rules (parts 9505.5000 to 9505.5105).

The Department finds the modification is not substantial but only clarifies the rule.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care, Minnesota Rules, Parts 9500.1090 to 9500.1155, (as modified) is adopted this 1st day of December, 1988, pursuant to authority vested in me by Minnesota Statutes, section 256.969.

Julie Brunner
for SANDRA S. GARDEBRING
Commissioner

In the Matter of the Adoption
of Amendments to the Rule of the State
Department of Human Services Relating to
Inpatient Hospital Reimbursement
in the Medical Assistance and General
Assistance Medical Care Programs,
Minnesota Rules, Parts 9500.1090 to 9500.1155

DECLARATION OF
COUNSEL

I, Neil Scott, 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 .0866.

Neil Scott

Special Assistant
Attorney General

Dated: 11/30/88

Agency Requested a Rush - Approval on 12/12 if possible.

If approved, please let BSL know it must be taken to the nurses on 12/12.

Authority

256.969 Subd. 6