

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Amendments to Rules of the Department of Human Services Governing Eligibility to Participate in the Medical Assistance Program, Minnesota Rules, Part 9505.0115, subpart 3

STATEMENT OF NEED AND REASONABLENESS

Medical Assistance (MA) or "Medicaid" is the program authorized under Title XIX of the Social Security Act to pay for health services for low income individuals who are under age 21, over age 65, blind, disabled, pregnant, or members of families with dependent children. Authorization for the MA program is found in Minnesota Statutes, Chapter 256B.

At the federal level, the program is administered by the Health Care Financing Administration, Department of Health and Human Services. The program implemented by the State must comply with federal regulations.

Eligibility for MA is determined through the local welfare or social service agencies under the supervision of the Minnesota Department of Human Services.

Minnesota Statutes, section 256B.04, subdivisions 1 to 4 specify the duties of the Commissioner of Human Services as the state agency required to supervise administration of the medical assistance program by the county agencies, to make uniform rules and regulations which shall be binding on the counties and to cooperate with the federal government to qualify for federal financial particiaption in the MA program.

Minnesota Rules, parts 9505.0010 to 9505.0150 establish the statewide standards to determine an applicant's eligibility and a recipient's continued eligibility to participate in the medical assistance program. Eligibility determination includes an examination of the applicant's or recipient's income and assets. These rules became effective January 1, 1987.

Part 9505.0115 REDETERMINATION OF ELIGIBILITY

This part specifies the circumstances in which an applicant or recipient must report a change in a factor used to determine the applicant's or recipient's eligibility, (eligibility factor), and the times when a local agency is required to perform periodic redeterminations of the recipient's eligibility.

The proposed amendment of subpart 3 changes the frequency of the periodic redetermination which the local agency must carry out from quarterly to semi-annually.

42 CFR 435 916 and 45 CFR 206.10 (a) (9) (1) and (11) require a redetermination of eligibility when a person's eligibility is affected by a change in financial or other matters which affect eligibility. The two-month limit for action on the change is reasonable because federal quality control policies define actions taken beyond this time as an "error" (see State

Medicaid Manual, part 7, 7257). Under 42 CFR 431.804, Minnesota may incur fiscal penalties because of such errors. Requiring a semi-annual review by the local agency if a person's assets are within $300 of the assets limitations is consistent with federal regulation and court decision. 42 CFR 435.916 (a)(2)(b) requires the state agency (the department) to have procedures to ensure recipients report changes and thus a means to define the need for a special redetermination of eligibility. The necessity of a special redetermination (the semi-annual review) was established in Levine vs Heckler, Eighth Circuit Court of Appeals which upheld the federal government's disapproval of Minnesota's practice of permitting a recipient 15 days after notification to reduce assets. Thus it is reasonable to review resources before ineligibility exists because the effort will enable recipients to take action when necessary to retain their medical assistance eligibility. Review when resources are within $300 of the limit is reasonable because it provides a balance between unduly burdening recipients and local agencies and the need for complying with federal requirements. The proposed change from a quarterly review to a semi-annual review is reasonable because although assets continue to be a high error element in quality control reviews according to an analysis of the department's Quality Control (QC) error data, requiring a quarterly review places an administrative burden on the counties that is not compensated by the MA payments saved. See the accompanying fiscal note which compares the estimated payments made in error to the administrative costs saved if the reviews are changed from quarterly to semi-annually. The accompanying fiscal note also reports that the FY 1988 QC review found 7 asset errors related to a build-up of assets in excess of the limit of $300 in 1186 cases sampled. The projected error incidence rate is 0.6%.

December 26, 1989

Julie Brunner

for ANN WYNIA, Commissioner

Department of Human Services

file

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: April 19, 1990

TO: ELEANOR WEBER
Department of Human Services
444 Lafayette Road (55155-3816)

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Periodic Redetermination of Medical Assistanc Facility

The above-referenced rule has been approved as to its legality by the Attorney General on April 19, 1990.

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 tne 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.

Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "
cc: Deborah Huskins

Stat. Authority
256 B.04 subd 2

The State agency shall: make uniform rules, not enconsistant with law, for carrying out and enforcing the provisions hereof . . .

~~missing date on Findings of Fact should be April 6 per Eleanor Wib~~

Department of Human Services

Adopted Permanent Rules Relating to Periodic Redetermination of Medical Assistance Eligibility

Rules as Adopted

9505.0115 REDETERMINATION OF ELIGIBILITY.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Periodic redetermination.** The local agency shall perform periodic redeterminations before the end of the eligibility periods defined in part 9505.0110, subpart 2, items A and B, so that eligibility is not interrupted because of agency delay of redetermination. The local agency shall review semiannually those cases where the person's assets are within $300 of the asset limitations in parts 9505.0059 and 9505.0060.

[For text of subps 4 and 5, see M.R. 1989]

APPROVED AS TO FORM AND LEGALITY

April 19 19 90

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3816

TO: Patricia Nolte, Legal Assistant
Public Finance Division
525 Park Street, Suite 500

FROM: Eleanor Weber

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Periodic Redetermination of Medical Assistance Eligibility, Minnesota Rules, part 9505.0115, subpart 3

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

Official documents in this submitted material include:

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

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

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

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

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

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

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AN EQUAL OPPORTUNITY EMPLOYER

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

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

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

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

11. No requests to be notified of submittal of the rule to the attorney general.

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

MC

RULE REVIEW CHECKLIST

File No. 1690 — Docket No. 05 0009 0866

DATE RECEIVED 4-6-90 — ADOPTED W/O HEARING ✓

REVIEW DATE 4-16-90 4-14-90 — EMERGENCY RULE _____

DUE DATE 4-20-90 — Brought to Carson 4-8-90

REVISOR APPROVED 4-17-90

APPROVED 4-19-90 mjc — REVISOR DISAPPROVED _____

DISAPPROVED ✓ — FILED W/SEC. OF STATE _____

WITHDRAWN _____ — RETURNED TO AGENCY _____

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4 Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
- _____ Date published in State Register
- ✓ Comments

_____ Petition for Adoption of a Rule (if applicable)

_____ Board's Authorizing Resolution
- _____ Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 256.01 subd 2 Statutory Authority
- NA Small Business Statement
- NA Expenditure of public money statement
- Dec 26, 1989 Signature

✓ Statement of Need and Reasonableness (if applicable)
- 1 Small Business Statement
- _____ Fees - § 16A.128 — no — fiscal note

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Jan 17, 1990 Date 30/25 days before adoption
- ✓ Notice attached
- _____ Copy of rule or summary attached

_____ Publication in State Register
- Jan 29, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
- NA Effective date of law requiring rule (14.12) (both rules) — amendments
- ✓ 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
- April 6, 1990 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
- Deborah Huskins Name of SAAG representing agency

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

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

4-9-90 - called Elanor Weber findings not dated

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Adoption
of the Proposed Amendment of the Rule
of the State Department of Human Services
Relating to Periodic Redetermination
of Medical Assistance Eligibility,
Minnesota Rules, part 9505.0115,
Subpart 3

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

1 Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on Monday January 22, 1990 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 January 17, 1990. 2 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.

4 All persons were given the opportunity to submit written comment on the rule amendment for 30 days after the notice of proposed rulemaking. 5 No requests for a public hearing on the rule amendment were received by the agency. 7 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.

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

No commenters requested changes to the proposed amendment of part 9505.0115, subpart 3.

8 The above-captioned rule amendment is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the amended rule identifed as Minnesota Rules, part 9505.0115, subpart 3 relating to periodic redetermination of medical assistance eligibility is adopted this 6th day of April, 1990, pursant to authority vested in me by Minnesota Statutes, section 256B.04, subdivision 2.

9

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

Children's Camps	*Minnesota Statutes*, Sec. 144.74	Charles Schneider	612/623-5335

Dated: 28 July 1989

Raymond W. Thron, Ph.D., P.E., Director
Division of Environmental Health

Higher Education Facilities Authority

Notice of Public Hearing on Proposal to Issue Revenue Bonds on Behalf of Gustavus Adolphus College

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to a proposal to issue revenue bonds on behalf of the Gustavus Adolphus College, a Minnesota nonprofit corporation and institution of higher education (the "College"), at the Authority's offices at Suite 450 Galtier Plaza, 175 East Fifth Street, St. Paul, Minnesota on August 23, 1989 at 2 o'clock p.m. Under the proposal, the Authority would issue its revenue bonds in an aggregate principal amount of up to approximately $2,500,000, to provide financing for a Project generally described as (i) the refunding of certain outstanding debt associated with the construction of an 11 unit student apartment complex completed in August, 1988, which facility houses 44 students; and (ii) the refinancing of the College's portion of outstanding debt in connection with the Authority's Pooled Revenue Bonds, Series 1983-A, which debt was used to finance in part the construction of the Lund Center for Physical Education and Health, a student athletic facility. The apartment complex and the Lund Center are owned and operated by the College and located on the campus of the College, the street address of which is Gustavus Adolphus College, St. Peter, Minnesota 56082. At said time and place the Authority shall give all parties who appear an opportunity to express their views with respect to the proposal to undertake and finance the Project.

Dated: 7 August 1989

BY ORDER OF THE MINNESOTA HIGHER
EDUCATION FACILITIES AUTHORITY
Joseph E. LaBelle
Executive Director

Department of Human Services

Assistance Payments Division

Notice of Solicitation of Outside Information or Opinions Regarding Amendments to Rules Governing Eligibility to Participate in the Medical Assistance Program

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 eligibility to participate in the medical assistance program, *Minnesota Rules*, part 9505.0115, subpart 3.

The adoption of the amendment to the rules is authorized by *Minnesota Statutes*, section 256B.04, subdivision 2.

The proposed amendment extends the interval from 3 months to 6 months for the required review of a recipient's assets as part of a redetermination of the recipient's continued eligibility to participate in the medical assistance program.

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:

Eleanor Weber
Rules Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Oral statements will be received during regular business hours over the telephone at (612) 297-4301 by Eleanor Weber and in person at the above address.

All statements of information and opinions shall be accepted until further notice. 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 amendment of the rule is adopted.

Dated: 31 July 1989

Eleanor E. Weber
Assistant Director, Rules Division

State Board of Investment

Meeting Notice of the State Board of Investment Administrative Committee

The State Board of Investment Administrative Committee will meet on Wednesday, August 16, 1989 from 9:00-11:00 A.M. in the MEA Building, 41 Sherburne Avenue, Conference Room A, St. Paul, Minnesota.

Metropolitan Council

Pre-Drafting Notice for the Preparation of an Amendment to the Transit Portion of the *Transportation Development Guide/Policy Plan* of the *Metropolitan Development Guide*

1. Preface

The Metropolitan Council is required by the regional transit legislation passed by the 1989 Minnesota Legislature to amend its *Transportation Development Guide/Policy Plan* by January 1, 1990. Specifically, the legislation states (Section 20):

"Notwithstanding the provisions of Section 473.146, by January 1, 1990, the Council shall revise the light rail transit element of its transportation plan, taking into consideration all the comprehensive plans and studies of corridors and preliminary design plans of regional railroad authorities"

Minnesota Statutes 473.146, also known as the Metropolitan Governance Act, requires certain steps be carried out in preparing policy plans and amendments affecting the regional transit system. These steps include preparing a pre-drafting notice requesting input before the amendment is prepared, and a pre-drafting review of the proposed amendment by the affected metropolitan agency.

The 1989 regional transit legislation has made the pre-drafting requirements subordinate to January 1, 1990 deadline for adopting the plan amendment. To comply with the intent of the Metro Governance requirement, the Council proposes to include foreshortened levels of predrafting notification and review.

2. Plan Amendment Content

The Transportation Development Guide/Policy Plan, adopted by the Metropolitan council in October, 1988, addresses both highway and transit service needs. The plan amendment will address the light rail transit component of the plan. The focus of the plan amendment will be the light rail transit-related policies, strategies, and plan discussion of the 2010 Metropolitan Transit System Plan and transportation finance areas of the plan. The amendment will consider plans and studies, both completed and underway, of the regional railroad authorities and other agencies.

3. Relationship to the Metropolitan Development and Investment Framework

The current *Transportation Development Guide/Policy Plan* was prepared to be consistent with the Council's *Metropolitan Development and Investment Framework* (MDIF). The amendment will also be prepared taking into consideration the planning and investment strategies, policy area recommendations, and socioeconomic forecasts of the MDIF.

4. Problem Statement

Planning for light rail transit in the Metropolitan Area has changed significantly since the adopting of the current policy plan. Planning funds were made available to county regional railroad authorities for preparing comprehensive and preliminary design plans. Several county regional railroad authorities are considering LRT applications in corridors beyond those specially identified in the policy plan. Concern has been expressed as to whether or not the Council's policy plan excessively constrains local planning initiatives. In addition, the 1989 regional transit legislation requires an LRT Development and Financial Plan to be prepared by the

Department of Human Services

Proposed Permanent Rules Relating to Periodic Redetermination of Medical Assistance Eligibility

Rules as Proposed

9505.0115 REDETERMINATION OF ELIGIBILITY.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Periodic redetermination.** The local agency shall perform periodic redeterminations before the end of the eligibility periods defined in part 9505.0110, subpart 2, items A and B, so that eligibility is not interrupted because of agency delay of redetermination. The local agency shall review ~~quarterly~~ semiannually those cases where the person's assets are within $300 of the asset limitations in parts 9505.0059 and 9505.0060.

[For text of subps 4 and 5, see M.R. 1989]

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Periodic Redetermination of Medical Assistance Eligibility

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9505

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

Subp. 5. **Allowable historical maintenance operating costs.** For purposes of part 9553.0050, subpart 1, item A, subitem (2), the facility's allowable historical operating costs in its maintenance operating cost category for the second rate year following the settle-up reporting period must not exceed 125 percent of the operating cost payment rate for the maintenance operating cost category in effect during the reporting year preceding the second rate year, times the prorated client days that correspond to those operating cost payment rates paid during that reporting year.

For later rate years, the allowable historical operating costs in the maintenance operating cost category must not exceed the limit above, increased annually by the same index specified in part 9553.0050, subpart 1, item A, subitem (2).

9553.0079 SEVERABLE PROVISIONS.

If any provisions of parts 9553.0010 to 9553.0080 are made invalid through judicial review or the state plan approval process, the commissioner may establish facility payment rates to be effective from the first day of the month following the date of the invalidation through the remaining portion of the rate year and for later rate years without benefit of the invalid provisions.

RENUMBERING. Subpart 1. **Instruction to revisor.** In the next edition of *Minnesota Rules*, the revisor of statutes shall renumber the part number in column A with the part number in column B and make all appropriate cross-reference changes in *Minnesota Statutes* and *Minnesota Rules*.

Column A	Column B
9553.0051	9553.0058
9553.0020, subp 43	9553.0020, subp 9b

Subp. 2. **Change in terms.** The revisor of statutes is directed to change the word "resident" wherever it appears in *Minnesota Rules*, parts 9553.0010 to 9553.0080 to "client." However, the revisor shall not change "resident" to "client" in *Minnesota Rules*, part 9553.0020, subpart 9a.

Department of Human Services

Proposed Permanent Rules Relating to Periodic Redetermination of Medical Assistance Eligibility

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.04, subdivision 2.

All persons have 30 days or until 4:30 p.m. on February 21, 1990 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. 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*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to Eleanor Weber, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4301.

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

The proposed amendment of Part 9505.0115, subpart 3 changes the period of the required review of a medical assistance recipient's assets from quarterly to semiannually if the recipient's assets are within $300 of the asset limitations. The proposed amendment will reduce the counties' administrative burden of reviewing assets and will result in cost savings to the medical assistance program.

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

A free copy of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296-7454.

A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296-7454.

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 requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Ann Wynia
Commissioner of Human Services

Rules as Proposed

9505.0115 REDETERMINATION OF ELIGIBILITY.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Periodic redetermination.** The local agency shall perform periodic redeterminations before the end of the eligibility periods defined in part 9505.0110, subpart 2, items A and B, so that eligibility is not interrupted because of agency delay of redetermination. The local agency shall review ~~quarterly~~ semiannually those cases where the person's assets are within $300 of the asset limitations in parts 9505.0059 and 9505.0060.

[For text of subps 4 and 5, see M.R. 1989]

Higher Education Coordinating Board

Proposed Permanent Rules Relating to Financial Aid

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Higher Education Coordinating Board intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is in *Minnesota Statutes* 136A.04, Subd. 1(9), 136A.16, and 136A.234.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rule. 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*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Mary Lou Dresbach
Minnesota Higher Education Coordinating Board
Capitol Square Building, Suite 400
550 Cedar Street
St. Paul, MN 55101
(612) 296-9656

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Periodic Redetermination of Medical Assistance Eligibility, Minnesota Rules, Part 9505.0115, subpart 3

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 17th day of January, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following parties:

- The 87 Minnesota County Human Services Agencies

- 10 State Regional Treatment Centers

- Kevin P. Kenney
  Associate County Administrator
  Bureau of Social Services
  A-2303 Government Center
  Minneapolis, MN 55487-0232

- Gloria Thelen
  Supervisor
  Nursing Home Unit
  Community Human Services Department
  160 East Kellogg Boulevard
  St. Paul, MN 55101

Nancy L. Bishop

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 15, 1990

Subscribed and sworn to before me
this 17 day of January, 1990
Claudia A. Eliason

Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Periodic Redetermination of Medical Assistance Eligibility, Minnesota Rules, Part 9505.0115, Subpart 3

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 256B.04, subdivision 2.

All persons have 30 days or until 4:30 p.m. on February 21, 1990 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. 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, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to Eleanor Weber, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297 4301.

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

The proposed amendment of Part 9505.0115, subpart 3 changes the period of the required review of a medical assistance recipient's assets from quarterly to semiannually if the recipient's assets are within $300 of the asset limitations. The proposed amendment will reduce the counties' administrative burden of reviewing assets and will result in cost savings to the medical assistance program.

A free copy of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296 7454.

A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296 7454.

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 requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Date: 12/26/89

Julie Brunna

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

In the Matter of the Adoption
of the Amendment of the Rule of
the State Department of Human Services
Governing Periodic Redetermination of
Medical Assistance Eligibility,
Minnesota Rules, Part 9505.0115, Subpart 3

DECLARATION OF
COUNSEL

I, Deborah Huskins, 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.

Deborah L. Huskins
Special Assistant
Attorney General

Dated: April 6, 1990

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Periodic Redetermination of Medical Assistance Eligibility, Minnesota Rules, Part 9505.0115, subpart 3

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Nancy Bishop, being sworn says:

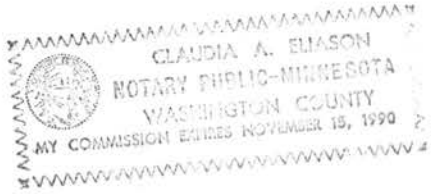
I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list which is accurate, complete, and current as of this 17th day of January, 1990.

That on the 17th day of January, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Nancy L. Bishop

Subscribed and sworn to before me this 17 day of January, 1990.

Claudia A. Eliason



Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Periodic Redetermination of Medical Assistance Eligibility, Minnesota Rules, Part 9505.0115, Subpart 3

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 256B.04, subdivision 2.

(2) All persons have 30 days or until 4:30 p.m. on February 21, 1990 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) 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. (4) 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. (6) 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. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to Eleanor Weber, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297 4301.

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

(11) The proposed amendment of Part 9505.0115, subpart 3 changes the period of the required review of a medical assistance recipient's assets from quarterly to semiannually if the recipient's assets are within $300 of the asset limitations. The proposed amendment will reduce the counties' administrative burden of reviewing assets and will result in cost savings to the medical assistance program.

(11) A free copy of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296 7454.

A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

(12) 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 upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296 7454.

(13) 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. (13) A fiscal note prepared according to requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Date: 12/26/89

Julie E. Brunner
by
ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

HENNEPIN

BUREAU OF SOCIAL SERVICES
A-2303 Government Center
Minneapolis, Minnesota 55487-0232

October 13, 1989

Ms. Eleanor Weber
Rules Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3813

Dear Ms. Weber:

This letter is in response to the official "Notice of Solicitation of Outside Information or Opinions Regarding Amendments to Rules Governing Eligibility to Participate in the Medical Assistance Program" (14 S.R.293). That "solicitation" is focused on preparing to propose an amendment to M.R. 9505.0115 subp. 3.

The Hennepin County Bureau of Social Services supports the proposed amendment to extend the intervals from three to six months for required reviews of a recipient's assets as part of redetermination of the recipient's continued eligibility to participate in the MA program. The current rule/review interval places the burden on clients in nursing homes (those least able to respond to the reviews) whose assets are not likely to change.

Our experience with more frequent interviews has proved unproductive, as we found few, if any, clients with excessive assets. The inception of computer matching has provided the safeguards and the ability to locate excess assets.

We appreciate the opportunity to provide input, and we look forward to supporting the proposed rule.

Sincerely,

Kevin P. Kenney
Associate County Administrator

lh

cc: Kay Mitchell, Clerk of the County Board

RAMSEY COUNTY

Community Human Services Department

160 East Kellogg Boulevard
Saint Paul, Minnesota 55101
(612) 298-5351
(612) 298-4014 (TDD)

County Commissioners
Diane Ahrens
John T. Finley
Ruby Hunt
Duane W. McCarty
Hal Norgard
Donald E. Salverda
Warren W. Schaber

Terry Schutten
Executive Director

December 4, 1989

Eleanor Weber
Rules Division
Minn. Dept. of Human Services
444 Lafayette Road
St. Paul, Mn. 55155-3816

Re: Quarterly Asset Reviews for
Medical Assistance Recipients

Dear Ms. Weber:

Several weeks ago we discussed the proposed ammendment to extend the interval from 3 months to 6 months for the required review of a recipient's assets as part of a redetermination of the recipient's continued eligibility to participate in the Medical Assistance program. You suggested I put my reasons for supporting the change in writing. Therefore:

1) In the Nursing Home unit ourcontact with the client is minimal. In almost all of our cases we deal with the authorized representative (usually the children or relative) of the client and since many of these people are retired (and older) reporting the assets every three months is a time consuming and difficult task

2) At the time of the initial application, assets are reducted to the allowable maximum, and unless the client receives a retroactive settlement or receives an inheritance these assets do not increase(other than interest)

3) Unless the over asset amount is due to cash surrender value of insurance, no reduction of assets is required until the annual eligibility review although they are still required to complete the quarterly review

4) Since the asset limit is $ 3,000 why do we even need a quarterly asset review if the assets are between $ 2,700 and $ 3,000.00, a once a year determination should give us sufficient information to determine on-going eligibility for the Medical Assistance program

While we support the change from a 3 month review to a 6 month review (this would coincide with our income report requirement) we feel if the asset review requirement were to revert to a once a year annual eligibility review (as mentioned in # 4 above) would be a time and cost effective measure for everyone - clients, suthorized representatives, and the Medical Assistance Program.

If you have any questions regarding the above information, feel free to contact me at 298-4183.

Sincerely,

G. Thelen

(Ms.) Gloria Thelen, Supervisor
Nursing Home Unit

GT;em

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3845

January 10, 1990

Gloria Thelen, Supervisor
Ramsey County Human Services Department
160 East Kellogg Boulevard
Saint Paul, Minnesota 55101

Dear Ms. Thelen:

Eleanor Weber from the Rules Division forwarded to me your letter regarding the Medical Assistance (MA) Program Rule change involving asset reviews.

Thank you for your support of the change to semi-annual reviews. Resource errors constitute over 80 percent of the payment errors in MA. Since these errors frequently occur in nursing home cases, they are usually costly. The special asset review process is one method of monitoring cases with high assets.

You indicated that for most cases currently reviewed under special asset reviews, excess assets are due to the accumulation of personal needs and interest, not due to the receipt of a lump sum. For these cases only an annual reduction of assets is required. However, policy states that if the special asset review process determines excess assets exist, an immediate reduction is required if the excess is not due to the accumulation of personal needs and/or interest.

Consequently, the Department proposes to retain special asset review process. Monitoring cases that are within $300 of the asset limit two times a year rather than monitoring only at the annual redetermination should help reduce the likelihood of MA ineligibility due to excess assets.

Sincerely,

Karen Schirle

Karen Schirle, Director
Quality Control/Corrective Action

AN EQUAL OPPORTUNITY EMPLOYER

OTTER TAIL COUNTY

Department Of Social Services

505 South Court Street • Phone (218) 739-4491
Fergus Falls, Minnesota 56537



January 23, 1990

Eleanor Weber
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Dear Ms. Weber:

Otter Tail County Department of Social Services strongly endorses the proposed amendment of MN Rules Part 9504.0115, Subpart 3.

This change will help reduce the overwhelming administrative burden which our financial workers feel.

We are not requesting a public hearing.

Sincerely,

Thomas M. Fawcett

:ms

SAINT LOUIS COUNTY
SOCIAL SERVICE DEPARTMENT

Robert J. Zeleznikar
Director

☐ ADMINISTRATIVE OFFICES
Government Services Center
320 West Second Street
Duluth, MN 55802-1495
(218) 726-2000

February 21, 1990

Received
2-22-90

Ms. Eleanor Weber
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3816

Dear Ms. Weber:

The St. Louis County Social Service Department Financial Assistance Division offers the following comments regarding the proposed MA Rule 9505.0115, Redetermination of Eligibility:

The quarterly asset process is time consuming for staff and confusing for clients. Approximately 15% to 20% of the MA clients, who were elderly persons, were involved in this review. Most of these were needed for clients in a nursing home setting, and the nursing home workers had approximately 15 to 16 reviews per month per worker. It was estimated that 5% to 10% of these cases had assets over the limits established.

The effectiveness of the review is questionable and only served to alert workers to review the status at the redetermination time. There is additional staff time needed to mail reviews, verify information by the financial workers, update the WIS system, and then follow up if these are not returned in a timely manner. An audit determined that 282 hours of staff time were needed each quarter for this procedure.

The MA program appears to be the only one requiring this action. In effect, this changes the standard limit to $2,700, not the $3,000 asset limit that is available to clients. In Medical Assistance, there is a very low error rate, and it would seem to be more feasible to concentrate efforts in an area where the cost reduction would be the greatest.

☒ Reply to

☐ Northland Office Center
307 South First Street
Virginia, MN 55792-1148
(218) 749-7100

☐ Graysher Shopping Center
Hibbing, MN 55746-3482
(218) 262-6000

☐ 118 South Fourth Avenue East
Ely, MN 55731-1402
(218) 365-6151

AN EQUAL OPPORTUNITY EMPLOYER

Thank you for your consideration. If you have any questions, please call me at (218) 726-2025 or Bunny Marko, MA Program Administrator at (218) 749-7100.

Sincerely,

Arlene Bjorkman

Arlene Bjorkman, Director
Financial Assistance Division

AB:lf

cc: Darrell E. Rude, Assistant Director
Bunny Marko

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DEPARTMENT OF HUMAN SERVICES

AMENDMENT TO MINNESOTA RULES, PART 9505.0115
REDETERMINATION OF MEDICAL ASSISTANCE ELIGIBILITY

FISCAL NOTE

Purpose of rule amendment.
Medical Assistance (MA) or "Medicaid" is the program authorized under Title XIX of the Social Security Act to pay for health services for low income individuals who are under age 21, over age 65, blind, disabled, pregnant, or members of families with dependent children.

Eligibility for MA is determined through the local welfare or social service agencies under the supervision of the Minnesota Department of Human Services. Eligibility determination includes an examination of the applicant's or recipient's income and assets. Recipients or applicants are required to report changes in factors used to determine their eligibility.

The current rule, part 9505.0115, requires asset reviews quarterly in cases where recipients or applicants report having assets within $300 of the asset limit. Eighteen percent of MA cases (or about 9,000 cases) require quarterly reviews under the current rule.

The proposed rule amendment changes the quarterly interval to a six-month interval.

Statutory authority for rule amendment.
Minnesota Statutes, section 256B.04, subdivisions 1 to 4 specify the duties of the Commissioner of Human Services for supervising administration of the medical assistance program authorized under Minnesota Statutes, Chapter 256B, and making uniform rules and regulations.

Reason for amendment at this time.
The amendment would reduce administrative costs by decreasing the number of required asset reviews. The quarterly review that is currently required creates an administrative burden that is not compensated by the MA payments saved.

Availability of funds.
The rule amendment will impose increased costs on state MA funding resources while decreasing costs for county and federal resources.

Projected state and local costs.

SAVINGS FROM REDUCTION OF NUMBER OF REVIEWS

Cases requiring quarterly asset reviews	9,900
Annual number of required reviews	39,600
Minutes per review	35
Annual hours for reviews	23,100
Average hourly cost for a review	$11.01
Annual cost for review	$254,331
County share	$127,166
Federal share	$127,166
Reduction in number of reviews	19,800
Savings of 50% reduction in number of reviews	$127,166
County share	$ 63,583
Federal share	$ 63,583

MA COSTS OF LESS FREQUENT REVIEWS

Reduction in number of reviews	19,800
Projected incidence of asset issues in cases subject to review	0.60%
Number of asset issues discovered later because of less frequent reviews	119
Projected average amount at issue	$703
Gross MA payment reduction projected from resolution of asset issues	$ 83,516
Net MA payment reduction available from continuing quarterly reviews assumed to equal 50% of gross savings from resolution of asset errors	$ 41,758
The cost of less frequent reviews equals the payment reduction foregone	$ 41,758
State share	$ 22,057
County share	$ 17,731
Federal share	$ 1,970

SUMMARY OF FISCAL EFFECTS

	Savings of Fewer Reviews	MA Cost of Fewer Reviews	Net Cost (Savings)
State share	$0	$22,057	$22,057
County share	(63,583)	17,731	(45,851)
Federal share	(63,583)	1,970	(61,613)
Total	($127,166)*	$41,758*	($85,407)

* Because the shares comprising the total have been rounded to the nearest dollar, their sum is a dollar less than the total amount.

Methodology.
The fiscal analysis uses data from MA Quality Control reviews to estimate the annual cost resulting from less frequent reviews. It is projected that second year cost savings would remain the same or increase as employee wages and benefits rise.

In FY 1988 Quality Control found asset errors in 1.1% of MA cases reviewed (13 errors out of 1186 cases.) The average erroneous payment in the cases found to have an asset error was $703. Six of the errors resulted from unreported assets, a type of error which would not be affected by the frequency of asset reviews. Thus 7 errors, producing an error rate of 0.6%, would potentially be affected by the frequency of asset reviews. This rate is used as the projected incidence of asset issues among MA cases for which less frequent asset reviews would be required.