

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: August 23, 1990

TO: ELEANOR WEBER
Rules and Bulletins Division
Department of Human Services

FROM: CHRISTIE ELLER CBE
Assistant Attorney General

PHONE: 296-9421

SUBJECT: In the Matter of the Adopted Rule Relating to Chemical Dependency Care for Public Assistance Recipients and the Consolidate Chemical Dependency Treatment Fund

The above-referenced rule has been approved as to its legality by the Attorney General on August 22, 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 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.

CBE:sc

cc: Gail Olson
William Brown, Chief Judge
MaryAnn Hruby

Department of Human Services

Adopted Emergency Amendments to Permanent Rules Relating to Chemical Dependency Care for Public Assistance Recipients and the Consolidated Chemical Dependency Treatment Fund

Rules as Adopted

9530.6605 DEFINITIONS.

[For text of subps 1 to 10, see M.R.]

Subp. 10a. **Combination inpatient/outpatient treatment.** "Combination inpatient/outpatient treatment" means chemical dependency primary rehabilitation licensed as Category II under parts 9530.4100 to 9530.4450 of seven to 14 days duration followed by outpatient chemical dependency treatment licensed under parts 9530.5000 to 9530.6500 of three or more weeks duration. The duration requirements may be altered if specified in a host county agreement conforming to part 9550.0040.

[For text of subps 11 to ~~25~~ 15, see M.R.]

Subp. 15a. **Facility that controls access to chemicals.** "Facility that controls access to chemicals" means a residential facility that has rules prohibiting residents from bringing chemicals into the facility and from using chemicals while a resident in the facility and that has penalties that are imposed upon violation of those rules. A facility that controls access to chemicals does not include a program licensed according to parts 9530.5000 to 9530.6500.

[For text of subps 16 to 25, see M.R.]

9530.6625 PLACEMENT CRITERIA FOR OUTPATIENT TREATMENT.

A client shall be referred to outpatient treatment when the client is assessed as capable of functioning in the usual community environment in spite of the existing chemical use and meets the criteria in item A, B, or C.

A. The client has been assessed as a chemical abuser under part 9530.6620, subpart 2, and is experiencing one or more of the following:

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(1) an arrest or legal intervention related to chemical use in the past year;

(2) loss or impairment of employment or education due to chemical use; or

(3) deterioration of family relationships due to chemical use.

B. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

C. The client has been assessed as meeting the criteria in part 9530.6630, subpart 1, and the client is residing in a residential facility that controls access to chemicals.

9530.6630 PLACEMENT CRITERIA FOR PRIMARY REHABILITATION OR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

Subpart 1. **Criteria for placement.** A client shall be placed in primary rehabilitation when the client meets the criteria in items A, B, and C.

A. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

B. The client has abstained from chemical use for fewer than seven consecutive days during the 30 days preceding assessment while the client has been outside a residential facility that controls access to chemicals.

C. The client is experiencing one or more of the following:

(1) loss or impairment of employment or education due to chemical use;

(2) lack of family support;

(3) an arrest or legal intervention related to chemical use in the past year; or

(4) the client has participated in a chemical dependency treatment program within the past year.

Subp. 2. **Type of placement.** The county may choose between a placement in primary rehabilitation in a free standing facility or hospital setting or in combination

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inpatient/outpatient treatment unless the client meets the criteria in part 9530.6631 or 9530.6635. Clients who meet the criteria in part 9530.6631 must be placed in combination inpatient/outpatient treatment. Clients who meet the criteria in part 9530.6635 must be placed in primary rehabilitation in a hospital setting.

9530.6631 [Emergency] PLACEMENT CRITERIA FOR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

A client shall be placed in combination inpatient/outpatient treatment when the client meets the criteria in part 9530.6630, subpart 1, and the client has abstained from chemical use outside a residential facility which controls access to chemicals for at least 30 consecutive days in the past 180 days.

9530.6640 PLACEMENT CRITERIA FOR EXTENDED CARE.

A client shall be placed in extended care if the client is assessed as chemically dependent under part 9530.6620, subpart 2, and ~~meets the criteria of item A or B:~~

~~A.~~ the client is experiencing four or more of the following:

~~(1)~~ A. The client has participated in primary rehabilitation treatment within the past two years or has participated in Category II, III, or IV programs three or more times in the client's lifetime.

~~(2)~~ B. The client has a previous arrest or legal intervention related to chemical use in the past year.

~~(3)~~ C. The client has a history of physical deterioration due to chemical use documented by a physician.

~~(4)~~ D. The client lacks family support.

~~(5)~~ E. The client has a loss of employment or has experienced suspension or expulsion from school due to chemical use.

~~(6)~~ F. The client lacks recognition of the need to change harmful behaviors.

~~(7)~~ G. The client has a history of a mental

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disorder which is now under control as documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist.

~~B.--The client has used chemicals to intoxication three or more times per week for two years and experienced item A, subitem (2), (3), (5), or (7).~~

9530.6641 [Emergency] REPEAT RESIDENTIAL PLACEMENTS.

A client who has participated in extended care under part 9530.6640 for 21 consecutive days within the past 24 months shall not be placed in primary rehabilitation or extended care treatment. The client shall be provided with other social services according to part 9550.0090. These services may include outpatient treatment, halfway house services, case management, and housing referral.

9530.6650 EXCEPTIONS TO PLACEMENT CRITERIA.

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

Subp. 3. [See Repealer.]

Subp. 3a. **Exceptions to part 9530.6641.** Clients who meet the criteria in part 9530.6641 [Emergency] shall be exempt from its provisions when they meet one of the following:

A. the client is pregnant or a single custodial parent;

B. the client:

(1) has a physical or mental health diagnosis that negatively affects the client's ability to benefit from treatment and that was not recognized at the time of the client's most recent placement; and

(2) is being referred to a program that offers specific services that address the client's physical or emotional condition; or

C. the client has voluntarily left a treatment program within the seven days preceding assessment and is being referred to the same program.

[For text of subp 4, see M.R.]

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9530.7000 DEFINITIONS.

[For text of subps 1 to 9, see M.R.]

Subp. 9a. **Custodial parent.** "Custodial parent" means a natural or adoptive parent with whom a minor child ~~is residing~~ resides at the time of assessment.

[For text of subps 10 to 21, see M.R.]

9530.7031 [Emergency] VENDOR'S DUTY TO COLLECT CLIENT FEES.

A vendor must collect client fees according to the requirements of items A to E.

A. A vendor of Category III or Category IV rehabilitation services shall determine the fee for each client who has no responsible relative and is not the custodial parent of a minor child. The fee shall be determined monthly according to part 9530.7024, as proposed at 14 State Register 2483, April 23, 1990, and as later adopted, for each month the client receives rehabilitation services from the vendor.

B. The vendor shall collect the fee from the client and provide the client with a receipt on a form supplied by the department.

C. A client's failure to pay a fee under this part shall be cause for discharge only if the discharge is in accordance with the vendor's discharge and transfer policy specified in part 9530.4300, subpart 5; except that clients committed according to Minnesota Statutes, chapter 253B, shall be discharged only according to Minnesota Statutes, chapter 253B.

D. Within 15 days of the end of the month for which the fee was determined, the vendor shall remit to the department the client fee collected according to this part and client identifying information on a form specified by the department.

E. The department shall pay the vendor, at least quarterly, an amount equal to five percent of the client fees collected by the vendor and remitted to the department.

F. The vendor's obligation to collect fees ends when the client is discharged.

G. The department shall bill the client for any fee

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not paid to the vendor according to this part, based on information supplied by the vendor.

REPEALER. Minnesota Rules, part 9530.6650, subpart 3, is repealed for the duration of these emergency rules.

EFFECT OF EMERGENCY AMENDMENTS AND REPEALER. After the emergency amendments to Minnesota Rules, parts 9530.6605, 9530.6625, 9530.6630, 9530.6640, 9530.6650, and 9530.7000 expire, the permanent rules as they read prior to those amendments shall again be in effect, except as may be amended by permanent rule. In addition, the repeal of Minnesota Rules, part 9530.6650, subpart 3 is effective until these emergency amendments expire. After the emergency amendments expire, Minnesota Rules, part 9530.6650, subpart 3 shall be revived, except as may be amended by permanent rule.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

August 22 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christie B Eller
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

AUG 22 1990 3:55

Joan Anderson Growe P.M.

Secretary of State

Emergency Rule – 10 working days for review

CE

RULE REVIEW CHECKLIST

File No. 1722
DATE RECEIVED 8-8-90
REVIEW DATE ~~8-22-90~~
DUE DATE ~~8-22-90~~ 8-10-90
(DIS)APPROVED ✓ 8-22-90
WITHDRAWN _____

Docket No. 05 0001 0871
ADOPTED W/O HEARING ✓
EMERGENCY RULE ✓
TO REVISOR ON 8/10/90
REVISOR (DIS)APPROVED 8-15-90
FILED W/SEC. OF STATE 8/22/90
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)

_____ Date published in State Register

_____ Comments

_____ Board's Authorizing Resolution

_____ Date adopted

✓ Proposed Rule

✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule

Laws of MN Statutory Authority Chapt. 568, article 2, section 91

NA Small Business Statement

✓ Expenditure of public money statement – save public $ submitted fiscal note

May 11, 1990 Signature

Don't need one

_____ Statement of Need and Reasonableness (if applicable) Don't need one

_____ Small Business Statement

✓ Fees - § 16A.128 – submitted letter to House Appropriations Finance

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

~~May 16, 1990~~ Dated 30/25 days before adoption – additional mailing May 22, 1990 – not timely and not to list

✓ Notice attached indicates it is attached

_____ Copy of rule or summary attached

✓ Publication in State Register

May 21, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:

✓ Effective date of law requiring rule NA

✓ (14.12) (both rules) amendments – not new material

_____ 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

August 8, 1990 Date

✓ Declaration of Attorney

Gail Olson Name of SAAG representing agency

✓ Notice of Submission to Attorney General (if applicable)

Aug 8, 1990 Affidavit of Mailing Notice to Attorney General (if applicable)

Stat. Authority Chap. 568, Article 2, section 91

The commissioner shall, by emergency rulemaking amend MN Rules, parts 9530.6600 to 9530.7030 in order to contain costs and increase collections for the consolidated chemical dependency treatment fund. The amendment must establish criteria that will:

(1) increase the use of outpatient treatment for individuals who can abstain from mood-altering chemicals long enough to benefit from outpatient treatment

(2) increase the use of outpatient treatment in combination with primary residential treatment

(3) increase the use of long-term treatment programs for individuals who are not likely to benefit from primary residential treatment

(4) limit the repeated use of residential placements for individuals who have been shown not to benefit from residential placements, including long-term residential treatment.

notice indicates end of comment period is June 15, 1990

Supp mailing but not mailing list

many comments but none asking for a hearing. large number of changes one of the largest concern is not being able to obtain treatment within 24 months

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 Chemical Dependency Care for Public Assistance Recipients and the Consolidated Chemical Dependency Treatment Fund

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE

(1) Notice of the Commissioner's intent to adopt the above-entitled emergency rule was published in the State Register on May 21, 1990, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.30 on May 16, 1990.

(2) All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking.

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

(3) **Part 9530.6605 DEFINITIONS.**

Subpart 10a. Combination Inpatient/Outpatient Treatment.

This subpart defines "Combination inpatient/outpatient treatment" as "chemical dependency primary rehabilitation licensed as Category II under parts 9530.4100 to 9530.4450 of seven to 14 days duration followed by outpatient chemical dependency treatment licensed under parts 9530.5000 to 9530.6500 of three or more weeks duration."

Senator Don Samuelson suggested that the length of stay in both the inpatient and outpatient portion of a combination program be left to the treatment provider and that the time limits in the proposed emergency amendments be removed.

Mr. Greg Jones is the chemical health director of Vinland National Center, a treatment program primarily for clients who have suffered injuries to the brain. The program consists of 30 days of inpatient treatment followed by 12 weeks of outpatient treatment. He suggested adding to the definition "or as may be established in the host county contract."

The department has carefully considered these comments. In considering these comments the department reviewed the existing rule. The purpose of part 9530.6610 is to remove from the treatment provider the ability to make decisions

(in this case placement of clients) which would be in its own financial interest. That responsibility has been given to the county or reservation. If the county or reservation, according to rule, has determined that a client will most appropriately be treated in a combination program, it is not appropriate for the treatment provider to change that determination by altering the length of stay. Therefore, the department declines to accept Senator Samuelson's suggestion.

However, using the same argument, the county or reservation should have a mechanism for choosing a different configuration of inpatient and outpatient stays when there is reason to believe the needs of an identified group of clients will be better served.

Therefore, the department accepts Mr. Jones' suggestion. This modification provides some of the flexibility sought by Senator Samuelson while maintaining the decision-making at the county level. The definition will be modified as follows:

"Combination inpatient/outpatient treatment" means chemical dependency primary rehabilitation licensed as Category II under parts 9530.4100 to 9530.4450 of seven to 14 days duration followed by outpatient chemical dependency treatment licensed under parts 9530.5000 to 9530.6500 of three or more weeks duration. <u>The duration requirements may be altered if specified in a host county agreement conforming to part 9550.0040.</u>

The above modification does not constitute a substantial change. It merely adds clarity to the responsibility of the county.

Part 9530.6625 PLACEMENT CRITERIA FOR OUTPATIENT TREATMENT.

Item C. This item allows the county/reservation to place a client in outpatient treatment even though the client meets the criteria for primary residential treatment if the client resides in a facility that controls access to chemicals.

Three comments were received concerning this item. Mr. Robert Olander, Director of the Hennepin County Chemical Health Division, supported the change.

Mr. Dennis Medved, Director of Riverplace, raised questions concerning "intensive outpatient". Outpatient chemical dependency treatment is defined in terms of licensure. "Intensive outpatient" is licensed according to the same rules (parts 9530.4100 to 9530.4450) as all other outpatient chemical dependency programs and will not be considered differently under this item. Therefore, no modification is necessary.

Mr. Pete Benner, Executive Director, AFSCME Council 6, raised the concern that placement decisions would be made based on type of residence, which he felt was irrelevant, rather than on the client's chemical use and related problems. In considering Mr. Benner's comments the department feels that residency is a very important factor in determining appropriate placement, particularly if the client resides in a setting which control access to chemicals. The department finds that the major difference between outpatient and inpatient treatment is the type of setting in which the services are provided. If the chemically free environment provided by inpatient treatment can be assured in conjunction with an outpatient program, research has shown that inpatient treatment may not be

needed for successful treatment outcome for the client. The department declines to adopt Mr. Benner's suggestion.

In reviewing these rules the department found that the placement criteria would be more clear if a definition of "facility that controls access to chemicals" was included. In order to resolve this problem the department will modify these amendments to include the following definition in part 9530.6605:

Subp 15a. Facility that controls access to chemicals. "Facility that controls access to chemicals" means a residential facility that has rules prohibiting residents from bringing chemicals into the facility and from using chemicals while a resident in the facility and has penalties which are imposed upon violation of those rules. "Facility that controls access to chemicals" does not include a program licensed according to parts 9530.5000 to 9530.6500.

The above modification does not constitute a substantial change. It merely adds clarity to the rule.

PART 9530.6630. PLACEMENT CRITERIA FOR PRIMARY REHABILITATION OR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

Subpart 1. Criteria for placement.

Item B. This item requires primary rehabilitation placement in residential treatment for clients that have abstained from chemical use for fewer than seven consecutive days during the past 30 days at the time of assessment.

Ms. Brenda Otto, Director of Adult Services, Olmsted County, commented that this presents a problem because it assumes chronic alcoholics cannot abstain for seven days.

The department has carefully considered Ms. Otto's concern. Seven days was chosen after careful consideration because the department sought to make sure that clients whose physical dependency was advanced were placed in a residential treatment setting. In attempting to abstain for seven days these clients will experience serious withdrawal symptoms and either resort to chemical use or seek professional attention in a hospital or detoxification center. It is unlikely that chronic alcoholics can abstain for seven days outside a facility which controls access to chemicals.

Ms. Otto also expressed the concern that documenting abstinence for chronic alcoholics is difficult because of their tendency to minimize or deny their excessive drinking.

The problem of obtaining accurate information from a chemically abusive or dependent client is considered in part 9530.6615, subp.3, with the requirement for collateral information.

The department feels it has taken Ms. Otto's concerns into account and that no modification of the rule is necessary.

Mr. Benner commented that the use of a specified amount of time in the rules "negates impartial professional judgment" and recommended deleting the proposed

language. The department has carefully considered Mr. Benner's comment. In doing so the department reviewed the authorizing legislation for the emergency and existing rules.

Laws of Minnesota 1990, Chapter 568, Article 2, Section 91, directs the department to "increase the use of outpatient treatment for individuals who can abstain from mood-altering chemicals long enough to benefit from outpatient treatment." These rules were originally authorized in Minnesota Statutes, section 254A.03, subdivision 3, which states "The commissioner of human services shall establish by rule criteria to be used in determining the appropriate level of chemical dependency care, whether outpatient, inpatient or short-term treatment programs, for each recipient of public assistance seeking treatment for alcohol or other drug dependency and abuse problems."

Reviewing these laws together the department believes its responsibility to be to set specific criteria describing "long enough to benefit." The department assumes that this legislation would not have been enacted if the legislature believed that "impartial professional judgment" was sufficient to determine the appropriate level of care. The department declines to accept Mr. Benner's recommendation.

PART 9530.6631. PLACEMENT CRITERIA FOR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

This part requires the county or reservation to place a client in a combination program if the client meets the criteria in part 9530.6630, subpart 2 and has abstained for at least 30 consecutive days during the past 180 days.

The department received five comments addressing this part.

Mr. Medved again sought clarification about the relationship between this rule part and "intensive outpatient" (see discussion, part 9530.6625).

Mr. Benner again commented that the use of calendar days "negates impartial professional judgment" (see discussion, part 9530.6630).

Senator Samuelson commented that some clients may not benefit from combination treatment, particularly if their period of abstinence was at the beginning of the six months under consideration. He recommended changing the "shall" to "may."

In developing this rule part, the department anticipated that clients who meet this criterion have some of the necessary skills for maintaining sobriety -- as demonstrated by 30 days of abstinence--but have experienced problems using those skills in their usual environment. The outpatient portion of a combination program will provide clients continuing support and additional skill building while affording them the opportunity to "practice" in their usual environment. An inpatient placement without the outpatient portion relies entirely on an artificial setting and does not as effectively address the problem of real life application. The department therefore declines to accept Senator Samuelson's suggestion to modify the rules.

Mr. Olander commented that the proposed rule part does not take into consideration the rapidity with which a cocaine abuser progresses to dependency.

He also recommended the "shall" be replaced by "may." Failing that, he recommended an exception for pregnant women because of the negative effects of cocaine use on unborn children.

While the department agrees that cocaine abuse progresses rapidly to dependency, it has seen no evidence that clients who are cocaine dependent require residential treatment. In fact there is some evidence that clients whose drug of choice is other than alcohol are more likely to be successfully treated in an outpatient setting. The department commissioned a study from the St. Paul Ramsey Foundation in 1986 titled "Chemical Dependency Inpatients and Outpatients: Intake Characteristics and Treatment Outcome". The authors found "a clear and consistent pattern of higher sobriety rates for outpatients with drug symptoms than inpatients with drug symptoms." (page 77)

The department therefore declines to accept Mr. Olander's first suggestion.

The department is also very concerned about drug use among pregnant women and has carefully considered Mr. Olander's request for an exception for pregnant women. In considering this request the department reviewed the existing rules, Minnesota Statutes, section 253B.02, subd. 2, and the proposed amendments. Part 9530.6635 requires placement in a hospital if the client has medical complications documented by a physician. Surely a physician would consider continuing cocaine use by a pregnant woman a medical complication. Additionally, the two programs available that are specifically designed to treat this population are outpatient programs coupled with housing in a facility controlling access to chemical use. Therefore the most frequently used referrals for these clients would be made according to part 9530.6625, item B.

Another avenue available for the placement of pregnant women is the Minnesota Commitment Act. Minnesota Statutes, section 253B.02, subd.2, specifically includes in the definition of chemically dependent person "a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following controlled substances or their derivatives: cocaine, heroin, phencyclidine, methamphetamine, or amphetamine." This provision directly relates to Mr. Olander's concern and makes it unnecessary to have a specific exception to part 9530.6631 for pregnant women.

Ms. Otto requested a delay in implementation of this part to develop combination programs.

In considering Ms. Otto's request the department reviewed some of the existing combination programs. It found there are combination programs that simply take advantage of inpatient and outpatient resources available in the community. It does not appear to be necessary to develop new models or agreements; it is only necessary for established programs to cooperate and communicate. Therefore, the department declines to accept Ms. Otto's request.

PART 9530.6640. PLACEMENT CRITERIA FOR EXTENDED CARE.

Item A. This item lists criteria for placement in extended care. No comments were received concerning the amendment to this item. However comments were received from Mr. Dan Cain, Director of Eden Programs, and Mr. Steve Schneider, Director of Behavioral Health at Sioux Valley Hospital, concerning the existing criteria. Because their comments were not specific to the emergency amendments

the department has declined their recommendations and will consider them during the permanent rulemaking process.

Item B. This item allows clients who have an unusually intense chemical use history to be placed in extended care even though they may not have suffered the high number of consequences usually associated with extended care clients.

Mr. Cain pointed out that even the most severe addicts have sobered up or withdrawn at some time. He recommended replacing the criteria concerning chemical use with "the client has been unable to maintain continuous sobriety for more than seven days in a 24 month period."

The department agrees that Mr. Cain's comments raise an important point about the client population. However, his suggestion would allow placement in extended care of clients who have only used their chemical of choice weekly. The department feels that language which would accurately describe the appropriate client and address Mr. Cain's concern would constitute a substantial change. This issue will be addressed in the permanent rule making process. Therefore, the department withdraws proposed rule part 9530.6640, item B.

The above modification does not constitute a substantial change to the proposed rule. The modification avoids confusion and inappropriate placement of clients.

PART 9530.6641. REPEAT RESIDENTIAL PLACEMENTS.

This part prohibits placement in primary rehabilitation or extended care for clients who have participated in extended care for 21 consecutive days in the past two years.

Laws of Minnesota 1990, Chapter 568, section 91, directs the department to amend rules " in order to contain costs and increase collections". "The amendment will...limit the repeated use of residential placements for individuals who have been shown not to benefit from residential placements, including long-term residential treatment." The department feels that the proposed amendments accomplish the legislative directive while still ensuring access to needed services. The proposed rule, with the modifications, take into consideration when clients are most likely to benefit from residential treatment, alternatives services to address their needs and special circumstances which might change the likelihood of benefit. The proposed rule is also supported by findings in a report prepared by CATOR, a private registry of treatment data (see page 8).

The department received comments from 11 individuals regarding this part. They were each carefully considered and reviewed along with the existing rule, the Minnesota Commitment Act, available program resources and related research. The comments are individually addressed below.

Mr. Robert Schlicht, Chemical Use Assessor, Redwood County, raised the concern that this part might deny residential placement to clients who have been committed in accordance with Minnesota Statutes, Chapter 253B.

In reviewing the existing rules, the department finds that part 9530.6650, subpart 1, item D, excludes committed clients from the placement criteria in the

rule. This exception will also apply to part 9530.6641. Therefore the department finds that Mr. Schlicht's concern has already been addressed.

Ms. Otto supported this provision in her comments. However, she did raise a concern about the lack of alternative resources for this group and recommends allowing placement in short-term relapse programs.

Relapse programs which are becoming accessible around the state are available on an outpatient basis. Therefore the department finds it unnecessary to accept Ms. Otto's recommendation.

The department is aware of the lack of alternative treatment programs for this population. Some do exist. Mr. Medved, in his comments, supported this provision and stated that this population appears to respond well to his "intensive outpatient" model. Such programs are not, however, readily accessible throughout the state.

Individuals who meet this criterion will have shown themselves to be difficult to treat in the most frequently available types of programs. Through adoption of this provision, the department hopes to encourage the development of more alternatives to address the needs of this population.

Mr. L.M. (Larry) Norby, Chemical Dependency Counselor, Sr., Fergus Falls Regional Treatment Center, expressed the concern that this part demonstrates discrimination and neglect of chronic alcoholics. Mr. Gene Anderson, MAPE member, Willmar Regional Treatment Center and Mr. LaVern Thompson, Group Supervisor at Fergus Falls Regional Treatment Center, shared Mr. Norby's concern. Mr. Thompson is aware of clients who found recovery in their fifth, sixth or tenth admission. Mr. Norby recommends deleting this provision and allowing assessors to determine what treatment is necessary. Mr. Benner made similar comments.

The department has carefully considered these comments and takes these concerns very seriously.

Clients meeting this criterion have not benefitted from extended care as it is generally provided in Minnesota. The department finds that this provision, rather than demonstrating discrimination, recognizes that repeating strategies that have failed to address the needs of these clients will be less helpful than alternatives. The department does not intend that counties or reservations should neglect these clients and this part specifically includes a requirement that a social service plan be developed and services be provided accordingly.

The department agrees that some clients have gained sobriety after numerous treatment admissions. However, in reviewing a report by CATOR, a private registry of treatment data, the department finds "Recency of previous treatment is more likely to be associated with relapse than previous treatment itself. Patients who have been admitted to treatment even as many as three times previously have very similar sobriety rates following their fourth admission to those of patients "who have never been in treatment before, <u>provided that their most recent admission was at least two years ago</u> (emphasis added)."

Therefore, the department declines Mr. Norby's recommendation of deleting this rule provision.

Mr. Benner and Senator Samuelson stated that this provision represents a decision not to treat and seems to be in conflict with Minnesota Statutes, section 254A.01.

The department has carefully considered these comments and in doing so reviewed Minnesota Statutes, section 254A.01. It states in part that "treatment shall not be denied on the basis of prior treatment...."

This provision does not deny primary residential rehabilitation or extended care treatment but delays admission until such admission is more likely to have a positive effect on a client's chemical use problems. The amendment specifically recommends two licensed chemical dependency treatment services (outpatient treatment and halfway house services) as alternative placements for these clients. The department finds that this provision does not deny treatment on the basis of prior treatment, but rather uses treatment history as a factor in determining an appropriate level of care.

Senator Samuelson commented that the rule part as proposed does not include a measure of benefit as required by the authorizing legislation. He recommended that the timelines in the proposed emergency amendment be replaced by "no readmission for 12 months after a 60 day stay."

The department chose 21 days as a measure of participation in extended care because some of the clients meeting this criteria will not have sufficiently detoxified in two weeks to be able to determine for themselves whether their needs are being addressed in the treatment program. After another week, if a client leaves the program without completing or if the client completes and resumes chemical use which would otherwise warrant another primary rehabilitation or extended care placement, this provision applies.

In reviewing the relevant rule parts, the department finds that to meet the criteria for primary rehabilitation or extended care the client must <u>minimally</u> have a current use pattern which meets the definition of "pathological use," must have been unable to abstain for seven days out of the previous 30 and have had <u>at least</u> one serious consequence of chemical use in the past year. The department finds it reasonable to assume that a client meeting these criteria has not significantly benefited from the extended care experience.

The department finds the timelines in the proposed amendment to be reasonable because they are based on the experience of over two thousand clients followed up by CATOR and on the ability of the client to choose to participate. Therefore, the department declines to accept Senator Samuelson's recommendation.

Senator Samuelson also commented that half the American Indian clients at Brainerd Regional Treatment Center would not be admitted under the proposed rule part.

In order to determine the impact of this rule provision on American Indian extended care clients at Brainerd Regional Treatment Center the department examined the treatment history of each of these clients admitted between January 1, 1990 and March 30, 1990. Because the average length of stay in extended care is 53 days, the three months of admissions examined during January to March 1990 would more than cover one treatment cycle. The department found that during the

study period 15 American Indians were admitted to extended care at Brainerd and thirteen of those admissions would have taken place under the proposed emergency amendment.

Mr. Benner also commented that arbitrary timelines are a poor substitute for professional judgment. This comment is similar to ones made by Mr. Benner concerning amendments to parts 9530.6630 and 9530.6631 and are addressed in these findings of fact in the discussion of part 9530.6630.

Mr. Olander commented that this provision lacks consideration of the tendency of some clients to leave treatment early and subsequently cooperate. He stated this concern was most serious for pregnant women. He recommended that the emergency rule part be replaced with language which would delay placement in primary rehabilitation or extended care if a client has participated in extended care more than twice within the past 24 months or more than 90 consecutive days within the past twelve months. Clients who returned for assessment or treatment within seven days of premature departure could be placed in primary rehabilitation or extended care.

If the above recommendation is not accepted he strongly urged an exclusion for pregnant women and for mothers.

Mr. Dan Cain, Director of Eden Programs, commented that it is not uncommon for cocaine addicts to leave treatment against staff advice, be absent for two or three days and return to complete treatment. He recommends that the emergency rule amendment not apply to clients who leave and return within a specified time, such as 72 hours.

The department has carefully considered the comments of Mr. Olander and Mr. Cain. The department declines Mr. Olander's first two suggestions for reasons discussed earlier. However, the department agrees that clients who leave and return in a short period of time should continue treatment. Their motivation may, in fact, be increased by the experience.

In considering Mr. Olander's recommendation that there be a specific exception for pregnant women and mothers, the department reviewed a report prepared in 1986 by the Chemical Dependency Program Division titled "Inpatient Chemical Dependency Treatment for Women: Gender Segregated vs. Coed Programs." This report found that women who are single parents more likely that other women clients to complete treatment and that women who complete treatment are more likely to be abstinent at six months following treatment than women who did not complete.

No similar information is available concerning men. However, it is reasonable to assume that if the responsibility for children is a contributing factor to successful treatment for women, it is the same for men.

While the department does not have information showing whether two years since the most recent admission or parental responsibility has a greater impact on treatment outcome, the department feels the information from the CDPD report, together with the importance of providing children with a safe, chemically free environment, provides reasonable support for accepting the portion of Mr. Olander's recommendation concerning an exception for pregnant women and for mothers. However, the department feels the modification should include all single custodial parents.

The modification is provided following the balance of the comments on this rule part.

Mr. Henkel, Social Service Supervisor, Lake County, commented that some clients have multiple problems that require flexibility: The system must be able to provide a restrictive setting when needed. He recommended deleting this provision or allowing for reasonable use of primary rehabilitation or extended care.

Mr. Schneider commented that the physical or emotional condition of some clients may require some inpatient time and recommended deleting this part or allowing inpatient stays of up to 14 days.

Mr. Jones recommended an exception for clients with special circumstances that may have impacted the clients' ability to benefit from previous treatment.

The department has carefully considered these comments and agrees that some clients are prevented from benefitting from treatment because of some factor which was not recognized by the county or reservation in making the most recent placement. Some of these factors include brain injury, reading ability, developmental disability, mental health diagnosis, or hearing impairment.

The department agrees that if the impairment is subsequently identified and a resource is available that has specific services to address the inhibiting factor in the context of chemical dependency treatment, another placement should be made.

If the client's problems were known at the time of the most recent extended care placement and that placement was not beneficial, the department finds no reason to repeat it within two years. Nothing in the amendments prohibits hospitalization for medical or mental health services.

If there are clients who are truly in need of a restrictive setting and do not fit the following modification, commitment according to Minnesota Statutes, chapter 253B, remains an option. Clients committed according to Minnesota Statutes, chapter 253B, are exempted from all the placement criteria in these rules.

The modifications to this part will be made by replacing part 9530.6650, subpart 3, as follows:

Subp. 3. Exceptions to part 9530.6641.

Clients who meet part 9530.6641 shall be excepted from its provision when they meet one of the following:

A. The client is pregnant or a single custodial parent;
B. the client has a physical or mental health diagnosis;
1. which negatively affects the client's ability to benefit from treatment;
2. which was not recognized at the time of the client's most recent placement; and

3. the client is being referred to a program that offers specific services which address the client's physical or emotional condition; or

C. The client has voluntarily left a treatment program within the seven days preceding assessment and is being referred to the same program.

The above modification does not constitute a substantial change to the proposed rule. The modification more effectively addresses the special situations of certain clients.

Part 9530.6650. EXCEPTIONS TO PLACEMENT CRITERIA.

Subp. 3 Exceptions to extended care.

The original subpart is being deleted. It allowed counties or reservations to refer clients who have been in extended care during the last 12 months to services other than extended care.

Mr. Olander questioned the reasons for removing this subpart. In reviewing the original part 9530.6650, subpart 3, the department finds that it is made moot by the addition of part 9530.6641. What was optional under the original part 9530.6650, subpart 3, is now mandated under the emergency amendment, part 9530.6641.

PART 9530.7000. DEFINITIONS.

Subp. 9a. Custodial parent.

Mr. Olander suggested adding to the definition "at the time of the assessment."

The department has carefully considered Mr. Olander's suggestion and agrees that the modification adds clarity to the definition.

The modification is:

Subp. 9a. Custodial parent. "Custodial parent" means a natural or adoptive parent with whom a minor child resides at the time of assessment.
The above modification does not constitute a substantial change to the proposed rule. The modification is for clarification only.

PART 9530.7031. VENDOR'S DUTY TO COLLECT CLIENT FEES.

Item C. This item governs the discharge of clients who do not pay their fees to the vendor.

In his comments, Mr. Schlicht raised the question of whether committed clients could be discharged for non-payment of fees.

The department has carefully considered Mr. Schlicht's question and reviewed the Minnesota Commitment Act, Minnesota Statutes, chapter 253B. The department finds that discharge of committed clients is clearly governed by Minnesota Statutes, section 253B.16 and that it is reasonable to modify the emergency amendment to be clear on that issue.

The modification is:

Item C. A client's failure to pay a fee under this part shall be cause for discharge only if the discharge is in accordance with the vendor's discharge and transfer policy specified in part 9530.4300, subpart 5, except that clients committed according to Minnesota Statutes, chapter 253B, shall be discharged only according to Minnesota Statutes, section 253B.16.

The above modification does not constitute a substantial change to the proposed rule. The modification more effectively addresses the special situations of certain clients in a manner consistent with governing statute.

Item E. This item provides for payments by the department to the vendor equal to 5% of the client fees the vendor collects.

In his comments, Mr. Olander raised the question of whether 5% was sufficient to cover the vendor's cost of collection.

In considering Mr. Olander's question the department reviewed the fiscal note regarding these emergency amendments and Laws of Minnesota 1990, chapter 568, article 2, section 91, the authorizing legislation. The department finds that the legislation specifies that five percent be paid to the vendor. Therefore, modification of the amount is not possible. The department anticipates the vendor will receive an average of $22 for collecting from each client who pays a fee.

New items F and G. In reviewing this rule part, the department finds that it does not address what happens to the fee obligation if, for any reason, the client has not paid the vendor all of the fee by the time the client is discharged.

The addition of these items is reasonable because they make it clear that the client continues to have a fee obligation, that the department will bill the client and ends any confusion about the vendor's continuing role in fee collection.

The modification is:

F. The vendor's obligation to collect fees ends at the time the client is discharged.

G. The department shall bill the client for any fee not paid to the vendor according to this part, based on information supplied by the vendor.

The above modification does not constitute a substantial change to the proposed rule. The modification is for clarification only.

GENERAL COMMENTS

In addition to the comments concerning specific rule parts Senators Samuelson and Chmielewski and Mr. Benner, Mr. Thompson, Mr. Anderson and Mr. Norby offered general comments concerning the negative impact these rules may have on the

Regional Treatment Centers (RTCs). These concerns were most pronounced in regard to emergency amendment 9530.6641 limiting repeat residential placements.

The department has carefully considered these comments and in doing so has reviewed the data from the Drug and Alcohol Normative Evaluation System (DANNES) for the calendar year 1989. The department found that 533 people were admitted to the six RTC extended care programs in 1989. Of this number, 55 persons or 10 percent of the total admissions had an extended care placement in the previous 24 months. Of the 55 persons who had a previous extended care placement, 17 or 3 percent were committed to the RTC. (Persons committed to the RTC would continue to be eligible for repeat residential placement under the proposed rule.) Thus the poplulation that would have been affected if the proposed emergency rule limitation had been in place would be 38 or 7 percent of the total admitted to all six RTC extended care programs. Although these emergency rules will have an impact on repeat residential placements, the rule revisions carry out cost containment measures, as enacted by the legislature.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Chemical Dependency Care for Public Assistance Recipients and the Consolidated Chemical Dependency Treatment Fund (as modified) is adopted this 28th day of August, 1990, pursuant to authority vested in me by Minnesota Statutes, section 256B.03, subdivision 5 and Laws of Minnesota 1990, chapter 568, article 2, section 91.

Ann Wynia

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Emergency Rules of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641 and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

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

PLEASE TAKE NOTICE that the above-captioned emergency rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, August 8 , 19 90 for review as to legality and form to the extent form relates to legality. The proposed emergency rule, the rule as adopted, all the notices, all written comments received and other required documents also have been submitted to the attorney general.

The proposed emergency rule which was published in the State Register and made available to the public on May 21, 1990, has been modified. A free copy of the emergency rule as modified as well as the Findings of Fact, Conclusions, and Order explaining the amendments and adopting the rule is available upon request from Nancy Bishop, Rules and Bulletins Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296-7454.

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

The Office of the Attorney General
Finance Division
525 Park Street, Suite 500
St. Paul, MN 55103
Telephone Number: (612) 296-9715

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

Robert Hamper
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Dated: August 8, 1990

Eleanor Weber
Rulemaker

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641 and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

AFFIDAVIT OF MAILING

Joyce Pederson, being first duly sworn, deposes and says:

That on the 16th day of May, 1990, 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.

Joyce Pederson

Subscribed and sworn to before me

this 16 day of May, 1990

Claudia A. Eliason

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

r2425p:4/24/90

Department of Human Services

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641, and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 256B.03, subdivision 5, and Laws of Minnesota 1990, chapter 568, article 2, section 91. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on June 15, 1990 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

These rule parts regulate the placement of clients in various chemical dependency treatment settings, when those clients require public funding from the consolidated chemical dependency treatment fund (CCDTF) to pay for that treatment. They also govern the collection of fees from extended care and halfway house clients. The rule parts will affect county chemical dependency assessors, CCDTF clients and CCDTF vendors.

Specific changes include changes to the placement criteria for outpatient primary rehabilitation and extended care. New rule parts include placement criteria for combination inpatient/outpatient treatment and provisions requiring extended care and halfway house vendors to collect client fees.

A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, phone (612) 296-7454.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent 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, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

Adoption of these rules will save the state and local public bodies monies the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note explaining the savings is available from Nancy Bishop.

Date: 5/11/90

/a ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Repeal of the Rule of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641 and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

AFFIDAVIT OF ADDITIONAL MAILING

Sheila Vadnais, being first duly sworn, deposes and says:

That on the 22nd day of May, 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 240 Consolidated Chemical Dependency Treatment Fund providers

- The 11 Indian Reservations

Sheila Vadnais

Subscribed and sworn to before me
this 23 day of May, 1990
Claudia A. Eliason

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

Department of Human Services

Proposed Permanent Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund

Resubmission of Notice of Intent to Adopt a Rule Without a Public Hearing

The Department of Human Services has resubmitted to the State Register the above-entitled rule amendments and notice of intent to adopt the amendments without a public hearing.

The proposed amendments and notice were originally published in the State Register on April 23, 1990 (14 S.R. 2483) and mailed to you on April 18,1990.

The resubmission does not affect the proposed amendments; they remain as they were originally published. The one difference made by the resubmission is that interested parties now have until 4:30 p.m. on June 7, 1990 (instead of May 23, 1990) to submit comments on the proposed amendments or requests for hearings.

Comments or written requests for a public hearing must be submitted to: Alice Weck, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-0626. Questions about the resubmission can also be directed to Ms. Weck at (612) 296-0626.

r2425p:4/24/90

Department of Human Services

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641, and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 256B.03, subdivision 5, and Laws of Minnesota 1990, chapter 568, article 2, section 91. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on June 15, 1990 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

These rule parts regulate the placement of clients in various chemical dependency treatment settings, when those clients require public funding from the consolidated chemical dependency treatment fund (CCDTF) to pay for that treatment. They also govern the collection of fees from extended care and halfway house clients. The rule parts will affect county chemical dependency assessors, CCDTF clients and CCDTF vendors.

Specific changes include changes to the placement criteria for outpatient primary rehabilitation and extended care. New rule parts include placement criteria for combination inpatient/outpatient treatment and provisions requiring extended care and halfway house vendors to collect client fees.

A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, phone (612) 296-7454.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent 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, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

Adoption of these rules will save the state and local public bodies monies the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note explaining the savings is available from Nancy Bishop.

Date: 5/11/90

/a ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Repeal of the Rule of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641 and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

AFFIDAVIT OF ADDITIONAL MAILING

Joyce Pederson, being first duly sworn, deposes and says:

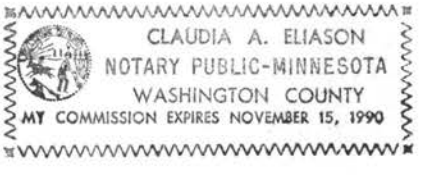
That on the 16th day of May, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following parties:

- The 87 Minnesota County Human Services Agencies

Joyce Pederson

Subscribed and sworn to before me this 16 day of May, 1990

Claudia A. Eliason



r2425p:4/24/90

Department of Human Services

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641, and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

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All persons have 25 days or until 4:30 p.m. on June 15, 1990 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

These rule parts regulate the placement of clients in various chemical dependency treatment settings, when those clients require public funding from the consolidated chemical dependency treatment fund (CCDTF) to pay for that treatment. They also govern the collection of fees from extended care and halfway house clients. The rule parts will affect county chemical dependency assessors, CCDTF clients and CCDTF vendors.

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A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, phone (612) 296-7454.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent 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, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

Adoption of these rules will save the state and local public bodies monies the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note explaining the savings is available from Nancy Bishop.

Date: 5/11/90

/a ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641 and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 16th day of May, 1990.

Joyce Pederson

In the Matter of the Proposed Adoption of Emergency Rules of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641 and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

DECLARATION OF COUNSEL

I, Gail M. Olson, 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 0871 .

Gail M. Olson

Special Assistant Attorney General

Dated: August 8, 1990

In the Matter of the Proposed Adoption of the Emergency Rule of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530,6640, 9530.6641 and the Consolidated Chemical Dependency Treatment Fund Minnesota Rules, Parts 9530.7000 and 9530.7031

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Joyce Pederson, being sworn, says:

That on the 8th day of Aug., 1990, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Joyce Pederson
(Name)
Exec. I.
(Title)

Subscribed and sworn to before me this 8 day of August, 1990.
Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 15, 1995

Emergency Rules

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Human Services

Proposed Emergency Amendments to Permanent Rules Relating to Chemical Dependency Care for Public Assistance Recipients and the Consolidated Chemical Dependency Treatment Fund

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 256B.03, subdivision 5, and *Laws of Minnesota 1990*, chapter 568, article 2, section 91. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on June 15, 1990 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

These rule parts regulate the placement of clients in various chemical dependency treatment settings, when those clients require public funding from the consolidated chemical dependency treatment fund (CCDTF) to pay for that treatment. They also govern the collection of fees from extended care and halfway house clients. The rule parts will affect county chemical dependency assessors, CCDTF clients and CCDTF vendors.

Specific changes include changes to the placement criteria for outpatient primary rehabilitation and extended care. New rule parts include placement criteria for combination inpatient outpatient treatment and provisions requiring extended care and halfway house vendors to collect client fees.

A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, phone (612) 296-7454.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent 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, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Adoption of these rules will save the state and local public bodies monies the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note explaining the savings is available from Nancy Bishop.

Ann Wynia
Commissioner

Rules as Proposed

9530.6605 DEFINITIONS.

[For text of subps 1 to 10, see M.R.]

Subp. 10a. **Combination inpatient/outpatient treatment.** "Combination inpatient/outpatient treatment" means chemical dependency primary rehabilitation licensed as Category II under parts 9530.4100 to 9530.4450 of seven to 14 days duration followed by outpatient chemical dependency treatment licensed under parts 9530.5000 to 9530.6500 of three or more weeks duration.

[For text of subps 11 to 25, see M.R.]

9530.6625 PLACEMENT CRITERIA FOR OUTPATIENT TREATMENT.

A client shall be referred to outpatient treatment when the client is assessed as capable of functioning in the usual community environment in spite of the existing chemical use and meets the criteria in item A ~~or~~, B, or C.

A. The client has been assessed as a chemical abuser under part 9530.6620, subpart 2, and is experiencing one or more of the following:

(1) an arrest or legal intervention related to chemical use in the past year;

(2) loss or impairment of employment or education due to chemical use; or

(3) deterioration of family relationships due to chemical use.

B. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

C. The client has been assessed as meeting the criteria in part 9530.6630, subpart 1, and the client is residing in a residential facility that controls access to chemicals.

9530.6630 PLACEMENT CRITERIA FOR PRIMARY REHABILITATION OR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

Subpart 1. **Criteria for placement.** A client shall be placed in primary rehabilitation ~~in a free standing facility or hospital setting~~ when the client meets the criteria in items A, B, and C.

A. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

B. The client ~~is unable to abstain~~ has abstained from chemical use ~~when~~ for fewer than seven consecutive days during the 30 days preceding assessment while the client ~~is~~ has been outside a residential facility that controls access to chemicals.

C. The client is experiencing one or more of the following:

(1) loss or impairment of employment or education due to chemical use;

(2) lack of family support;

(3) an arrest or legal intervention related to chemical use in the past year; or

(4) the client has participated in a chemical dependency treatment program within the past year.

Subp. 2. **Type of placement.** The county may choose between a placement in primary rehabilitation in a free standing facility or hospital setting or in combination inpatient/outpatient treatment unless the client meets the criteria in part 9530.6631 or 9530.6635. Clients who meet the criteria in part 9530.6631 must be placed in combination inpatient/outpatient treatment. Clients who meet the criteria in part 9530.6635 must be placed in primary rehabilitation in a hospital setting.

9530.6631 [Emergency] PLACEMENT CRITERIA FOR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

A client shall be placed in combination inpatient/outpatient treatment when the client meets the criteria in part 9530.6630, subpart 1, and the client has abstained from chemical use outside a residential facility which controls access to chemicals for at least 30 consecutive days in the past 180 days.

9530.6640 PLACEMENT CRITERIA FOR EXTENDED CARE.

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

A. The client is experiencing four or more of the following:

(1) The client has participated in primary rehabilitation treatment within the past two years or has participated in Category II, III, or IV programs three or more times in the client's lifetime.

~~B.~~ (2) The client has a previous arrest or legal intervention related to chemical use in the past year.

~~C.~~ (3) The client has a history of physical deterioration due to chemical use documented by a physician.

~~D.~~ (4) The client lacks family support.

~~E.~~ (5) The client has a loss of employment or has experienced suspension or expulsion from school due to chemical use.

~~F.~~ (6) The client lacks recognition of the need to change harmful behaviors.

~~G.~~ (7) The client has a history of a mental disorder which is now under control as documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist.

B. The client has used chemicals to intoxication three or more times per week for two years and experienced item A, subitem (2), (3), (5), or (7).

9530.6641 [Emergency] REPEAT RESIDENTIAL PLACEMENTS.

A client who has participated in extended care under part 9530.6640 for 21 consecutive days within the past 24 months shall not be placed in primary rehabilitation or extended care treatment. The client shall be provided with other social services according to part 9550.0090. These services may include outpatient treatment, halfway house services, case management, and housing referral.

9530.6650 EXCEPTIONS TO PLACEMENT CRITERIA.

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

~~Subp. 3. **Exception to extended care criteria.** A client who meets the criteria for placement in an extended care program under part 9530.6640, has participated in an extended care program in the past year, and continues to experience problems due to chemical use may be placed in outpatient treatment or in a chemical dependency domiciliary facility licensed under parts 4625.0100 to 4625.2300 on the recommendation of the assessor. Residence in the facility must be based on a plan developed or approved by the county.~~

[For text of subp 4, see M.R.]

9530.7000 DEFINITIONS.

[For text of subps 1 to 9, see M.R.]

Subp. 9a. **Custodial parent.** "Custodial parent" means a natural or adoptive parent with whom a minor child is residing.

[For text of subps 10 to 21, see M.R.]

9530.7031 [Emergency] VENDOR'S DUTY TO COLLECT CLIENT FEES.

A vendor must collect client fees according to the requirements of items A to E.

A. A vendor of Category III or Category IV rehabilitation services shall determine the fee for each client who has no responsible relative and is not the custodial parent of a minor child. The fee shall be determined monthly according to part 9530.7024, as proposed at 14 *State Register* 2483, April 23, 1990, and as later adopted, for each month the client receives rehabilitation services from the vendor.

B. The vendor shall collect the fee from the client and provide the client with a receipt on a form supplied by the department.

C. A client's failure to pay a fee under this part shall be cause for discharge only if the discharge is in accordance with the vendor's discharge and transfer policy specified in part 9530.4300, subpart 5.

D. Within 15 days of the end of the month for which the fee was determined, the vendor shall remit to the department the client fee collected according to this part and client identifying information on a form specified by the department.

E. The department shall pay the vendor, at least quarterly, an amount equal to five percent of the client fees collected by the vendor and remitted to the department.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

May 10, 1990

The Honorable Wayne Simoneau
Minnesota State Representative
House Appropriations Committee
Room 335
State Office Building
St. Paul, MN 55155

Dear Representative Simoneau:

Minnesota Statutes, section 16.128, subdivision 2a, requires the Department of Human Services to submit to your office a copy of a rule and the notice of the intent to adopt the rule that establishes or adjusts a fee.

The Department of Human Services is now proposing emergency amendments to rules governing chemical dependency care for public assistance recipients and the chemical dependency treatment fund, Minnesota Rules, parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 6530.6640, 9530.6641, and 9530.7031. These emergency rules were authorized by Laws of Minnesota 1990, chapter 568, article 2, section 91. The department believes that the enclosed rule amendments do not fall within the purview of the statute as they do not establish any new fees or change existing rates. However, part 9530.7031 does change collection procedures.

Attached is the fiscal note, the proposed rule and the rulemaking notice.

The Department of Human Services will publish in the State Register on May 21, 1990, a Notice of Intent to Adopt an Emergency Rule for this rule.

If you have any questions about the rule, please contact Lee Gartner, Department of Human Services, Chemical Dependency Division, 444 Lafayette Road, St. Paul, MN 55155-3823, at (612) 296-8574.

Sincerely,

ANN WYNIA
Commissioner

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

May 10, 1990

The Honorable Gene Merriam
Senate Finance Committee
Room 121
State Capitol Building
St. Paul, MN 55155

Dear Senator Merriam:

Minnesota Statutes, section 16.128, subdivision 2a, requires the Department of Human Services to submit to your office a copy of a rule and the notice of the intent to adopt the rule that establishes or adjusts a fee.

The Department of Human Services is now proposing emergency amendments to rules governing chemical dependency care for public assistance recipients and the chemical dependency treatment fund, Minnesota Rules, parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 6530.6640, 9530.6641, and 9530.7031. These emergency rules were authorized by Laws of Minnesota 1990, chapter 568, article 2, section 91. The department believes that the enclosed rule amendments do not fall within the purview of the statute as they do not establish any new fees or change existing rates. However, part 9530.7031 does change collection procedures.

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If you have any questions about the rule, please contact Lee Gartner, Department of Human Services, Chemical Dependency Division, 444 Lafayette Road, St. Paul, MN 55155-3823, at (612) 296-8574.

Sincerely,

ANN WYNIA
Commissioner

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Amendments to Department of Human Services Rules Relating to Chemical Dependency Care for Public Assistance Recipients (Minnesota Rules, parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640, and 9530.6641) and the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, parts 9530.7000 and 9530.7031)

FISCAL NOTE

I. SUMMARY OF ESTIMATED FISCAL IMPACT*

Net Effect of Amendments	Cost to Counties	Cost to State
Year One	$ (346,620)	$ (2,291,515)**
Year Two	$ (392,620)	$ (2,597,515)
Total	$ (739,240)	$ (4,889,030)

* See part III for an explanation of the methodology used in calculating totals.
** Numbers in parentheses indicate a reduction in costs or a net savings.

II. BACKGROUND INFORMATION ON RULE

A. PURPOSE OF AMENDMENTS

The purpose of the amendments is to decrease costs and increase revenue to both the counties and the state. Amendments to 9530.6600 to 9530.6655 decrease costs by diverting certain chemical dependency clients to lower cost services. New rule part 9530.7031 increases revenue by facilitating the collection of client fees from halfway house and extended care clients.

B. STATUTORY AUTHORITY

Minnesota Statutes, section 254B.03, subdivision 5, authorizes the commissioner to "adopt rules as necessary" to implement Laws of 1986, chapter 394, sections 8 to 20 and Laws of Minnesota 1990, chapter 568, article 2, section 91.

C. REASON FOR THE ADOPTION OF AMENDMENTS

Substantive amendments proposed at this time address changes the department must make in order to provide chemical dependency services to eligible clients within the available funding limitations.

D. BACKGROUND AND FUNDING SOURCE

The proposed amendments affect two series of DHS rule parts (parts 9530.6600 to 9530.6660 and parts 9530.6800 to 9530.7030) known informally as Rule 25 and Rule 24 respectively. Both rules were promulgated in 1987 as mandated by Minnesota Statutes, section 254B.03, subdivision 5 to implement Laws of Minnesota 1986, chapter 394, sections 8 to 20.

That legislation created a consolidated chemical dependency treatment fund, appropriated funds to counties and Indian reservations for chemical dependency treatment costs, and removed funds for chemical dependency treatment from medical assistance, general assistance medical care, and general assistance funds.

The state pays for the treatment services governed by these rule parts from the consolidated fund. Minnesota Statutes, section 254B.03, subdivision 4 requires counties to pay the state for 15 percent of the cost of chemical dependency services. The county share comes from counties' local levy monies, community social services act funds, and federal social services block grants.

The supplemental budget request for the funding of the Consolidated Chemical Dependency Treatment Fund (CCDTF) presented to the 1990 Legislature by Governor Perpich included a projected savings in 1991 of $2,126,000. This reduction assumed a $500,000 increase in client fee collections (see attached). Emergency rule making authority was granted in order to achieve these savings. (Laws of Minnesota 1990, chapter 568, article 2, section 91).

Rule 25 (parts 9530.6600 to 9530.6660) establishes criteria for county social service agencies to use in determining the appropriate level of care needed by a public assistance recipient seeking chemical dependency treatment. The amendments govern placement of individuals in outpatient, inpatient, combination inpatient/outpatient, and extended care programs.

Rule 24 (parts 9530.6800 to 9530.7030) governs administration of the CCDTF. The rule part open to amendment addresses collection of fees owed by individuals receiving halfway house or extended care services.

III. METHODOLOGY

In estimating the fiscal impact of these amendments, the department relied primarily on the CCDTF billing system. This system collects minimal demographic information plus information about cost and length of stay for each client for whom public funds are used as payment for treatment.

The Department also used the experience of staff who have monitored chemical dependency client files maintained by the counties.

The explanation for how the department arrived at the estimated impact is included in the analysis below.

A. PARTS 9530.6625, 9530.6630, 9530.6631, 9530.6640 AND 9530.6641.

A savings of $2,126,000 in the first year of implementation is realized by the state by diverting clients to less expensive forms of treatment.

The Department estimates the proposed rules will divert 25 percent of the current primary rehabilitation clients to other rehabilitation settings. This estimate is based on DHS experience in monitoring client files maintained at the local agencies.

The reduction in state spending will result in a reduction of county match requirements. Second year projection is based on the difference between the anticipated growth of the CCDTF with and without these rule changes.

The Department will offer training on the implementation of these rules. The training on this information will take approximately two hours and there will be no charge. Counties will have to provide staff time and travel for any participants they send. The cost of participation in training was not considered because there is no charge, participation is not mandatory, and the state will absorb the cost of delivering the training.

	Cost to Counties	Cost to State
Year One	$ (319,000)	$ (2,126,000)
Year Two	$ (365,000)	$ (2,432,000)
	$ (684,000)	$ (4,558,000)

B. PART 9530.7031

In order to determine the impact of this provision the Department examined the payment status of each client admitted to a halfway house during January and February, 1989, who had a client fee obligation.

By March, 1990, $54,712 of $66,033 had been collected. Annualized, $328,269 of halfway house client fees go uncollected. The Department estimates two-thirds of this amount ($216,631) can be collected with the implementation of this provision.

Fifteen percent of fees paid is retained to defray the cost of collections. Of this $32,496, one-third or $10,832 will be returned to service providers to cover their cost of collection. The average client fee during the period studied was $448, which would now include $22 (5 percent) per client to the vendor. The Department assumes this amount to be sufficient to cover the providers' costs.

The Department will have additional costs associated with the implementation of this provision, primarily in the printing of client receipts and reporting forms. However of the 15 percent retained to defray cost of collections, two-thirds stays with the Department. Because this $21,664 represents funds the Department would not otherwise have received it will be sufficient to cover the cost of printing and any other costs incurred in setting up bookkeeping systems to track these payments.

There are no costs to the counties. However, 15 percent of the increased collections will be credited to county allocations after the deduction of the 15 percent cost of collections.

Total savings to the State is the anticipated increase in collections minus the 15% cost of collections and the 15% county share.

	Cost to Counties	Cost to State
Year One	$ (27,620)	$ (165,515)
Year Two	$ (27,620)	$ (165,515)
	$ (55,240)	$ (331,030)

Date: 5/11/90

/s/ ANN WYNIA
Commissioner

Department of Human Services

Proposed Emergency Amendments to Permanent Rules Relating to Chemical Dependency Care for Public Assistance Recipients and the Consolidated Chemical Dependency Treatment Fund

Rules as Proposed

9530.6605 DEFINITIONS.

[For text of subps 1 to 10, see M.R.]

Subp. 10a. **Combination inpatient/outpatient treatment.** "Combination inpatient/outpatient treatment" means chemical dependency primary rehabilitation licensed as Category II under parts 9530.4100 to 9530.4450 of seven to 14 days duration followed by outpatient chemical dependency treatment licensed under parts 9530.5000 to 9530.6500 of three or more weeks duration.

[For text of subps 11 to 25, see M.R.]

9530.6625 PLACEMENT CRITERIA FOR OUTPATIENT TREATMENT.

A client shall be referred to outpatient treatment when the client is assessed as capable of functioning in the usual community environment in spite of the existing chemical use and meets the criteria in item A ~~or~~, B, or C.

A. The client has been assessed as a chemical abuser under part 9530.6620, subpart 2, and is experiencing one or more of the following:

(1) an arrest or legal intervention related to chemical use in the past year;

(2) loss or impairment of employment or education due to chemical use; or

(3) deterioration of family relationships due to chemical use.

B. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

C. The client has been assessed as meeting the criteria in part 9530.6630, subpart 1, and the client is

Approved by Revisor KTH

residing in a residential facility that controls access to chemicals.

9530.6630 PLACEMENT CRITERIA FOR PRIMARY REHABILITATION OR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

Subpart 1. **Criteria for placement.** A client shall be placed in primary rehabilitation ~~in-a-free-standing-facility-or hospital-setting~~ when the client meets the criteria in items A, B, and C.

A. The client has been assessed as chemically dependent under part 9530.6620, subpart 2.

B. The client ~~is-unable-to-abstain~~ has abstained from chemical use ~~when~~ for fewer than seven consecutive days during the 30 days preceding assessment while the client ~~is~~ has been outside a residential facility that controls access to chemicals.

C. The client is experiencing one or more of the following:

(1) loss or impairment of employment or education due to chemical use;

(2) lack of family support;

(3) an arrest or legal intervention related to chemical use in the past year; or

(4) the client has participated in a chemical dependency treatment program within the past year.

Subp. 2. **Type of placement.** The county may choose between a placement in primary rehabilitation in a free standing facility or hospital setting or in combination inpatient/outpatient treatment unless the client meets the criteria in part 9530.6631 or 9530.6635. Clients who meet the criteria in part 9530.6631 must be placed in combination inpatient/outpatient treatment. Clients who meet the criteria in part 9530.6635 must be placed in primary rehabilitation in a hospital setting.

9530.6631 [Emergency] PLACEMENT CRITERIA FOR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

A client shall be placed in combination

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inpatient/outpatient treatment when the client meets the criteria in part 9530.6630, subpart 1, and the client has abstained from chemical use outside a residential facility which controls access to chemicals for at least 30 consecutive days in the past 180 days.

9530.6640 PLACEMENT CRITERIA FOR EXTENDED CARE.

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

A. The client is experiencing four or more of the following:

(1) The client has participated in primary rehabilitation treatment within the past two years or has participated in Category II, III, or IV programs three or more times in the client's lifetime.

~~B.~~ (2) The client has a previous arrest or legal intervention related to chemical use in the past year.

~~C.~~ (3) The client has a history of physical deterioration due to chemical use documented by a physician.

~~D.~~ (4) The client lacks family support.

~~E.~~ (5) The client has a loss of employment or has experienced suspension or expulsion from school due to chemical use.

~~F.~~ (6) The client lacks recognition of the need to change harmful behaviors.

~~G.~~ (7) The client has a history of a mental disorder which is now under control as documented by a psychiatrist, licensed consulting psychologist, or licensed psychologist.

B. The client has used chemicals to intoxication three or more times per week for two years and experienced item A, subitem (2), (3), (5), or (7).

9530.6641 [Emergency] REPEAT RESIDENTIAL PLACEMENTS.

A client who has participated in extended care under part

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9530.6640 for 21 consecutive days within the past 24 months shall not be placed in primary rehabilitation or extended care treatment. The client shall be provided with other social services according to part 9550.0090. These services may include outpatient treatment, halfway house services, case management, and housing referral.

9530.6650 EXCEPTIONS TO PLACEMENT CRITERIA.

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

~~Subp. 3. Exception to extended care criteria. A client who meets the criteria for placement in an extended care program under part 9530.6640, has participated in an extended care program in the past year, and continues to experience problems due to chemical use may be placed in outpatient treatment or in a chemical dependency domiciliary facility licensed under parts 4625.0100 to 4625.2300 on the recommendation of the assessor. Residence in the facility must be based on a plan developed or approved by the county.~~

[For text of subp 4, see M.R.]

9530.7000 DEFINITIONS.

[For text of subps 1 to 9, see M.R.]

Subp. 9a. **Custodial parent.** "Custodial parent" means a natural or adoptive parent with whom a minor child is residing.

[For text of subps 10 to 21, see M.R.]

9530.7031 [Emergency] VENDOR'S DUTY TO COLLECT CLIENT FEES.

A vendor must collect client fees according to the requirements of items A to E.

A. A vendor of Category III or Category IV rehabilitation services shall determine the fee for each client who has no responsible relative and is not the custodial parent of a minor child. The fee shall be determined monthly according to part 9530.7024, as proposed at 14 State Register 2483, April 23, 1990, and as later adopted, for each month the client receives rehabilitation services from the vendor.

B. The vendor shall collect the fee from the client

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and provide the client with a receipt on a form supplied by the department.

C. A client's failure to pay a fee under this part shall be cause for discharge only if the discharge is in accordance with the vendor's discharge and transfer policy specified in part 9530.4300, subpart 5.

D. Within 15 days of the end of the month for which the fee was determined, the vendor shall remit to the department the client fee collected according to this part and client identifying information on a form specified by the department.

E. The department shall pay the vendor, at least quarterly, an amount equal to five percent of the client fees collected by the vendor and remitted to the department.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Amendments to Permanent Rules Relating to Chemical Dependency Care for Public Assistance Recipients and the Consolidated Chemical Dependency Treatment Fund

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9530

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

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

FROM: Eleanor Weber
Rules and Bulletins Division
Department of Human Services

SUBJECT: Attorney General's Review of Emergency Rule

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0400 for your review of an emergency rule for the above entitled matter.

Official documents in this submitted material include:

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

2. The notice of intent to adopt an emergency rule as mailed.

3. The affidavit of mailing the notice of intent to adopt an emergency rule. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.30, is accurate, complete, and current and that the notice of intent to adopt the emergency rule was mailed to all persons and groups whose names appear on the list.

4. A copy or photocopy of the notice of intent to adopt the emergency rule as published in the State Register.

5. Four copies of the emergency 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.

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

7. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule.

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

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

10. The affidavit of mailing notice of submission of the rule to the attorney general.

Please note that outside opinion was not sought on the rule draft. Therefore, no notice of solicitation of outside opinion was published in the State Register.

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

r2425p:4/24/90

Department of Human Services

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing the Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, Parts 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640 and 9530.6641, and the Consolidated Chemical Dependency Treatment Fund, Minnesota Rules, Parts 9530.7000 and 9530.7031

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

(1) Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 256B.03, subdivision 5, and Laws of Minnesota 1990, chapter 568, article 2, section 91. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

(2) All persons have 25 days or until 4:30 p.m. on June 15, 1990 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. (3) Any comments must be submitted to: Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

(4) These rule parts regulate the placement of clients in various chemical dependency treatment settings, when those clients require public funding from the consolidated chemical dependency treatment fund (CCDTF) to pay for that treatment. They also govern the collection of fees from extended care and halfway house clients. The rule parts will affect county chemical dependency assessors, CCDTF clients and CCDTF vendors.

(4) Specific changes include changes to the placement criteria for outpatient primary rehabilitation and extended care. New rule parts include placement criteria for combination inpatient/outpatient treatment and provisions requiring extended care and halfway house vendors to collect client fees.

(5) A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, phone (612) 296-7454.

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

(7) Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent 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, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

(8) The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

(9) Adoption of these rules will save the state and local public bodies monies the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note explaining the savings is available from Nancy Bishop. (10)

Date: 5/11/90

/a ANN WYNIA
Commissioner

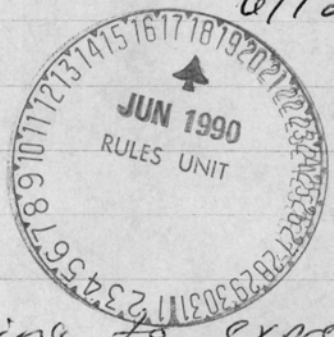
Findings of Fact does not indicate if anyone requested notice of submission to the Attorney General - did mail notice to people that requested submission to the Attorney General

6-2794

Bob Hamper - Fees? These rules don't establish fees Didn't need to do fiscal note - send the wrong letter to the House appropriation and Senate Finance - not setting fees - fees were sent before - Change is facility will try to collect the fees while the client is in the facility. The vendor is paid 5% for collecting the fee. The fee is not changed to the client but the agency is getting 5% less. However Hamper maintains

6/12/90

Nancy Bishop,
444 Lafeyette Rd
St. Paul MN 55155-3816



Dear Nancy,

I am writing to express my strong concern over the proposed changes in rule 25 evaluation/funding. Having worked with chemically dependant clients for 7 plus years, mostly in State Regional Treatment Centers, I fear the changes directed at indigent clients admissions if they've had 21 days of treatment in past 24 mos. will not only abandon these individuals need for care, but will cost much more to treat in the future. I hope more input is requested from all parties involved before these changes are decided.

Sincerely,
Gene D. Anderson
MAPE member
Willmar Regional Treatment Center

Copies to:
MAPE.
SRTC-CDU.

AFSCME
American Federation of State, County and Municipal Employees
COUNCIL 6, AFL-CIO
265 Lafayette Road South
St. Paul, Minnesota 55107-1683
Telephone: (612) 291-1020
s 19
Representing State and University Employees

May 30, 1990



Ms. Lee Gartner
Chemical Dependency Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155

Dear Ms. Gartner:

On behalf of AFSCME Council 6 and the union's membership who work in the chemical dependency treatment programs at the regional treatment centers, I wish to go on record as strongly opposed to the proposed emergency amendments to permanent rules relating to chemical dependency care for public assistance receipts and the consolidated chemical dependency treatment fund. These proposed emergency rules would have a serious impact on clients, chemical dependency workers at the regional treatment centers, and the regional treatment center chemical dependency programs themselves which represent the chemical dependency safety net in Minnesota.

There are a number of major concerns within and related to the proposed emergency rules which we believe should be emphasized.

* The proposed emergency rule would mandate client referral to outpatient treatment based on the client's residency "in a residential facility that controls access to chemicals" (9530.6625, subd. C). This proposal would place an inordinate weight on a questionable, if not irrelevant assessment factor (residency) in deciding the type of treatment referral to be made. In particular, a client who is participating in a controlled treatment environment, such as an inpatient program, may not sufficiently benefit from outpatient referral if there is a break in continuity or coordination between inpatient and outpatient programs. We urge you to drop this proposal.

* The proposed emergency placement criteria for primary rehabilitation or combination inpatient/outpatient treatment are arbitrary and may lead to a denial of proper treatment. (9530.6630, subd. B, and 9530.6631) The adoption of a calendar day formula in the rule would negate impartial professional judgement and lead to less appropriate assessments for some clients. The particular circumstances and needs

of a given client must be thoroughly assessed. Treatment decisions should be made on the basis of full client assessments, rather than a day of the month calculation. We suggest these proposals be deleted.

* Similarly, the proposed emergency rule which restricts repeat residential placements (9530.6641) represents a decision not to treat. Again, we see an arbitrary number of calendar months as a very poor substitute for professional treatment decisions. What makes this proposal even more offensive is that in many cases, by definition, the clients who will be denied residential treatment are the ones who are most in need.

The overall impact of these emergency rules will be to channel some clients toward less costly, but possibly less appropriate treatment options. Clients with chronic CD problems, as a result of 9530.6641, can and will be denied treatment entirely. The anticipated reduction of client referrals to the regional treatment center chemical dependency programs (estimated up to 25%) threatens the employment of workers at the centers. And, since the regional treatment centers represent the safety net of chemical dependency services in the state, the rule would weaken RTC services and result in the possible destruction of a key component of our chemical dependency service system.

Five years ago AFSCME argued strongly against the creation of a chemical dependency consolidated fund because of its bias against inpatient forms of treatment. Since then, actual reductions in RTC inpatient populations have confirmed that the system is biased toward treatment which the RTC programs do not provide.

AFSCME strongly opposes the implementation of these emergency rules. We foresee an erosion of services to chemically ill Minnesotans if they are implemented, and a weakening of the public safety net of programs for the disabled in our state.

Sincerely,

Pete Benner

Pete Benner, Executive Director
AFSCME Council 6, AFL-CIO

PB:nj

cc: Commissioner Ann Wynia
Senator Linda Berglin
Senator Don Samuelson
Rep. Alan Welle
Rep. Lee Greenfield
All RTC Legislators
All DHS Local Presidents
Mike Morrell
Roger Dahlquist
Tom Beer
Eliot Seide
file

DON SAMUELSON
Senator District 13
Crow Wing, Morrison, Cass
124D State Capitol
St. Paul, Minnesota 55155
Phone: (612) 296-4875
Home:
1018 Portland Avenue
Brainerd, Minnesota 56401
Phone: (218) 829-4898



Senate

State of Minnesota

June 7, 1990

Ms. Nancy Bishop
Rules Division
Department of Human Services
444 Lafayette Road
St. Paul MN 55155-3816

Dear Ms. Bishop,

I am writing in response to the proposed emergency rule amendments, dated May 10, 1990, to the permanent rules governing the Consolidated Chemical Dependency Treatment Fund.

I have one general comment to make and three specific changes to offer. My general comment is that the proposed rule amendments introduce into the rule a number of arbitrary time frames that are not consistent with current treatment practice and will have a potentially devastating impact on clients, especially extended care clients, served by regional treatment centers. As you are aware, state policy on the treatment of chemical dependency (M.S. 254A.01) is that treatment shall not be denied because of prior treatment and treatment must be based on an individual treatment plan. Your proposed rule amendments seem to be in conflict with these policy goals by denying access to extended care because of previous extended care treatment and by establishing arbitrary limits on care that would take precedence over an individual treatment plan.

My specific proposals are as follows:

1. 9530.6605, Subp. 10a. Combination inpatient/outpatient treatment. The time limits on primary rehabilitation (7 to 14 days) and outpatient treatment (three or more weeks) should be removed. Length of treatment stay should rest on the judgment of the treatment team, based on the team's knowledge of the client, the client's diagnosis, and the client's progress.

2. 9530.6631. Placement criteria for combination inpatient/outpatient treatment. The "shall" should be changed to "may" and other necessary changes made to allow clients meeting these criteria to be placed in other treatment settings if appropriate. A client who has abstained from chemical use for fewer than seven consecutive days during the past 30 days may not benefit from a combination program, especially if the 30 days of sobriety in the past 180 days occurred six months ago. The assessor must have the option to place this client in a more structured program if appropriate.

3. 9530.6641. Repeat residential placements. Prohibiting a client from being readmitted to extended care for 24 months after a 21 day stay will have a devastating effect on indigent clients, especially American Indian clients. If the proposed rule was in effect now, about half the American Indian clients at the Brainerd Regional Treatment Center would not have qualified for admission. I propose that the language be changed to prohibit a readmission for 12 months following a 60 day stay. The law requires the rules to limit repeat admissions of persons "who have been shown not to benefit from residential placements." I think clients are benefitting from extended care if they maintain sobriety for a year following a 60 day stay. I question whether your proposed rule, which includes no criteria to measure whether a client has benefitted from extended care, meets the requirements of the law.

Thank you for considering my comments.

Sincerely,

Don

Don Samuelson
State Senator

DS:ph

FLORIAN C. CHMIELEWSKI
President Pro tem of the Senate
Room 325, State Capitol
St. Paul, Minnesota 55155
(612) 296-4182
Home:
Sturgeon Lake, Minnesota 55783
(218) 372-3616



Senate
State of Minnesota

June 7, 1990

Ms. Lee Gartner
Chemical Dependency Division
Dept. of Human Services
444 Lafayette Road
St. Paul, MN 55155

Dear Lee:

I want to go on public record as being in strong opposition to the proposed emergency amendments to the permanent rules regarding chemical dependency care for public assistance recipients, and to changes to the consolidated chemical dependencey treatment fund.

The problem is that while these proposed changes may save the state money, they will do so at the expense of the chemical dependency clients who won't receive appropriate treatment. The proposed changes to the emergency rules clearly will have a negative impact on in-patient treatment and is inconsistent with national standards of chemical dependency assessment and referral practices.

Therefore, I strongly urge the department not to adopt the proposed changes to the emergency rules.

Sincerely,

FLORIAN CHMIELEWSKI
President Pro Tem

FC:ed

COMMITTEES • Employment, Chairman • Taxes and Tax Laws • Health & Human Services • Rules and Administration

Comments submitted regarding proposed Emergency Rules amending Minnesota Rules parts 9530.6620 to 9530.6670.

9530.6640 subitems A(3) and A(7) require documentation from medical or psychological personnel that certain conditions exist. "Street addicts" seldom access medical or psychological services except to illegally procure drugs, consequently, such documentation may not exist even in cases where the required conditions are obvious; i.e. a prospective client who has multiple injection scars accompanied by yellow eyes and skin color, or a prospective client has a history of bizarre and unexplainable criminal behavior, but because the criminal justice system always intervened, has never been seen by a psychologist. I would suggest that criteria be developed which allow documentation by the assessor when certain conditions are obvious as a result of the individuals physical characteristics or psychological demeanor or when such conditions are documented by a reputable representative of the criminal justice system.

9530.6640 subitem B is not in step with the real world as even the most severe addict has periodic moments of sobriety or withdrawal in a 24 month span. It should be changed to read ".....the client has been unable to maintain continuous sobriety for more than 7 days in a 24 month period."

9530.6641 is inconsistent with addressing problems associated with cocaine dependence (the #1 problem in public opinion polls) as cocaine addicts are prone to extreme anxiety for several months following their last usage. This condition is well documented and mutually agreed upon by all experts in the field. As a result of this, it is quite common for a client to leave treatment, Against Staff Advice; be gone for one or two days; and then return to successfully complete treatment and remain drug free. Counseling staff are the people best equipped to evaluate a clients prognosis for completing treatment once they have left and come back. To set the arbitrary number of 21 consecutive days of treatment, after which a client may not leave and return, then to go on to say that this client may not receive services s/he is assessed for, for an additional 2 years is ludicrous. At the very least the rule should state that this provision will not apply to someone who leaves and returns within a specified period of time, i.e. 72 hours. Given the extremely unstable nature of these clients, anything less is tantamount to sentencing them to an additional 2 years of addiction, and society to an additional 2 years of paying for that addiction.

Respectfully submitted,

Dan Cain
Executive Director

Fergus Falls
REGIONAL TREATMENT CENTER

North Union Avenue, Box 157, Fergus Falls, Minnesota 56537-0157 (218) 739-7200
Elaine J. Timmer, Chief Executive Officer

June 11, 1990

JUN 1990
RULES UNIT

Nancy Bishop
Rules Division DHS
444 Lafayette Road
St. Paul, MN 55155-3816

Dear Ms. Bish p:

I am writing in regard to the proposed Rule 25 changes. I am mostly concerned about Section 9530.6641 repeat residential placements. The proposed elimination of treatment from those who have had 21 days of consecutive treatment seems to border on discrimination and neglect. I do not believe any other disease we treat in our society has such restriction placed on its treatment. No one says to the cancer patient, "you have received 21 days of therapy, therefore you are no longer eligible to receive any more treatments for two years."

My suggestion to change this portion is to eliminate it and allow the assessors to determine what treatment is necessary to help an individual back to a sober, drug free life.

I have worked in the field of chemical dependency for 20 years and know many people personally who found recovery in 5th, 6th and 10th admission. I pray we do not give up on people because of funding problems.

Sincerely,

Mr. LaVern Thompson

LaVern Thompson
Group Supervisor
DDRC/FFRTC

LT:dh

Fergus Falls
REGIONAL TREATMENT CENTER

North Union Avenue, Box 157, Fergus Falls, Minnesota 56537-0157 (218) 739-7200
Elaine J. Timmer, Chief Executive Officer





June 12, 1990

Nancy Bishop
Rules Division
Dept. of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Dear Ms. Bishop:

I am writing this letter in opposition to emergency rule, following the procedure set forth in the Administrative Procedure Act for adopting emergency rules in Mn. Statutes, Sections 14.29 to 14.36.

Effective change of Rule 25 for the Fergus Falls Regional Treatment Center and the client who is in need of treatment would be adversely affected on the continuum of care.

The Rule primarly is stating that a great majority of the patients would be on the streets and will have to be refed through the outpatient, board and care, and halfway houses for a period of approximately two years with little chance receiving treatment and ongoing sobriety. Also apperas that the severely chronically chemically dependent person who is in need of treatment and is homeless in many cases, would be completely left out with little chance of recovery.

I believe that it would greatly enhance the validity of Rule 25 if evaluators, who are properly trained in the field, could and would make appropriate referrals for continuum of care. I believe that if this is let go at this time the economic impact on the State of Minnesota in the future will be that of great magnitude.

In short, I would like to firmly oppose changes in Rule 25 that would affect the continuum of care of residents in the State of Minnesota.

Yours very truly,

L.N. (Larry) Norby
Chemical Dependency Counselor, Sr.
DDRC/FFRTC



Vinland National Center

Lake Independence • P.O. Box 308 • Loretto, Minnesota 55357 • (612) 479-3555 Voice or TTY

June 7, 1990

Lee Gartner
Chemical Dependency Program Division
Minn. Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3823

Dear Ms. Gartner:

I have reviewed the proposed Emergency Amendments to Minnesota Rules relating to the Consolidated Chemical Dependency Treatment Fund and the Chemical Dependency care for public assistance recipients. Please consider the following comments:

9530.6605, Subp. 10a
(Definition of Combination Inpatient/Outpatient Programs):

Vinland National Center operates an in/out combination program with a maximum 30 day residential stay followed by 12 weeks of primary outpatient treatment. This program is designed for brain injury survivors who demonstrate impairments in cognition or functional abilities. A residential stay of 14 days or less would be ineffective for these clients.

Under the language of the proposed amendment, Vinland would be excluded from the definition of in/out combination programs. Our in/out program is clearly defined as such within our host county CCDTF contract with Hennepin County.

RECOMMENDATION: Add language including other categories of in/out combination programs as may be established in host county contracts.

9530.6640 and 9530.6641
(Criteria for Extended Care and Repeat Residential Placements)

Since opening our specialized programs in March 1990, we have noted that almost half of the clients we have served have had primary chemical dependency treatment in Category II programs within the past two years. ***In the majority of those cases, client status as a brain injury survivor (with consequent cognitive, functional and emotional difficulties) was not identified or addressed in treatment. Discharge planning did not provide for the complex support and service needs of persons with these conditions.***

This section of the rule uses imperative language (i.e., "A client *shall* be placed in extended care..."). If this language is adopted, almost half of the persons we are treating would be required to participate in extended care programs that would have little or no understanding of the needs of persons with brain injuries.

How will the State of Minnesota accommodate persons who have received chemical dependency services but have not been treated appropriately? This circumstance applies not only to brain injury survivors, but also to persons of color, or women, or persons with mental illness.

We are learning that when members of these "diverse population" groups are treated in programs which address their unique and complex needs and use a "whole person" approach, outcomes from treatment are much more positive. Conversely, when they are treated in traditional programs which do not consider their learning, psychosocial and cultural needs, outcomes are poor.

Under the proposed language, the State of Minnesota will be denying primary treatment services to people who may have had treatment failures <u>due to the failure of the system to respond to their needs</u>.

There is no reason to believe, in these cases, that extended care treatment would be any more effective than an additional primary treatment which clearly addresses unique client needs.

In the case of individuals with cognitive and functional disabilities, it is not always true that a long-term stay in an extended care program will be more beneficial than a shorter stay in a primary program. <u>The issue is not more treatment, but different (and more appropriate) treatment</u>.

RECOMMENDATION: Language be included allowing for exceptions when the assessor is aware of special circumstances which may have impacted the ability of the client to benefit from previous treatments.

<u>Additional Comments</u>

In the drafting of the emergency amendment and revision of Rule 25, consideration must be given to the needs of persons with cognitive and functional disabilities.

As director of the Minnesota Project on Cognitive Disability and Chemical Health (a DHS/CDPD-funded study of the chemical health needs of people with mental retardation, brain injuries, learning disabilities and borderline intelligence), I am aware that the majority of individuals with learning or functional impairments are not identified in chemical dependency assessments as having special needs. Yet, we know that people with these disabilities do not do well in traditional treatment programs.

Our project is generating some ideas for screening, placement, treatment approaches and aftercare requirements that I am eager to offer for your consideration as you work on Rule 25 revisions. I am enclosing a draft of a document that is currently being used in DHS-sponsored Rule 25 training seminars.

Thank you for your consideration of my comments. Please contact me if I can be of further assistance.

Sincerely,

Greg Jones, L.S.W., C.C.D.P.
Chemical Health Program Director

cc: file

COUNTY OF Olmsted

COMMUNITY SERVICES

2116 Campus Drive SE
Rochester, Minnesota
55904



June 8, 1990

To: Nancy Bishop, DHS Rules Division
From: Brenda J. Otto, CDTF Coordinator,
Olmsted County Social Services
RE: Proposed Rules 24 and 25 Changes

Overall, OCDSS has greatly awaited long-discussed changes in the Rules governing the CDTF to come through the Emergency Rule process.

I believe that in the two years we have dealt with our providers and fellow CD treatment colleagues in the field, we are still faced by some of the same issues that will not be addressed by the change in rules. Somehow, the community at large that accesses the CDTF has the idea that Rule 25 criteria would match the decision-making process of a CD counselor when he/she determines need for CD treatment on a client with certain symptoms.

Judges are a group constituting the most confused when it comes to CDTF criteria. They figure that with the best professional recommendation that DWI client X needs treatment and then some county assessor says the client does not meet criteria on Rule 25, what is going on? The new language concerning the financial determination is the most clear.

Our chemical dependency assessors and case managers applaud the new consideration woven through for persons "residing in a residential facility that controls access to chemicals".

They hate the 9530.6630 Placement Criteria Subpart i. Section B concerning chronics because it comes from the premise that chronics could not possibly abstain for 7 days or more when we have many local examples that this can be done. Also, it is extremely problematic to try to document abstinence in a chronic CD individual because of their persistent level of denial and minimizing.

Under 9530.6641 Repeat Residential Placements, we like the intended outcome of not being mandated to place a client who has had 21 days in 24 months in treatment back into extended care. However, we don't have any idea of any local halfway houses or outpatient treatment settings that would accept such a chronic individual as an alternative. We wonder if there could be some provision for a type of time-limited relapse program since those seem to be springing up all over.

The other remedy we would be interested in would be some additional implementation time related to the combination Inpatient/Outpatient Programs. We have no current resources and believe it will take additional time to construct some interagency agreements or actually develop the model.

Should you wish to contact me, my phone number is (507 285-8922. Thank You.

Sincerely,

Brenda J. Otto

Brenda J. Otto, M.S.Ed., M.A.
Director of Adult Services

cc: Patricia Carlson,Director
Olmsted County Community Services



RIVERPLACE COUNSELING CENTER



June 5, 1990

TO: Lee Gartner
State of Minnesota
Department of Human Services

RE: Comments Regarding Emergency Rule Affect On Intensive Outpatient Chemical Dependency Treatment Program

Thank you for visiting with me regarding the "Emergency Rule" as relates to The Consolidated Treatment Fund. In reading the proposed changes, I have some concern and questions about how the Intensive Treatment Program, as discussed, will fit with the various "placement criteria" and "type of placement" as detailed in these emergency amendments.

I am grateful to have received permission and have had the opportunity with our staff to develop the Intensive Outpatient Program over the past two and a half years. I have enclosed various information that detail what this program is and would like to discuss how the program is working in terms of cost effectiveness and mainly how the vast majority of referrals to this program have been appropriate.

Our initial premise was that many individuals could be appropriately served in a less restrictive, non institutional setting and at a cost that could be significantly less than that of inpatient treatment. First, from the cost effectiveness standpoint, with the total cost to the Consolidated Treatment Fund, including provision for meals and lodging, of $2,360 (at least one half of inpatient treatment) and now with room for 50 persons, we can document saving to the Consolidated Fund this year of over one million dollars. This amount is conservative, especially since there are no charges added on for additional services or charges to GA or any source for food allowance, entertainment or lodging. I am careful, Lee, to present this program to others as an outpatient program and as initially requested, to offer lodging at Riverhouse or other locations as an option since outpatient clients can choose to live wherever they prefer, and certainly to avoid statements such as "we are better than" any other method of treatment. However, the most valid means of comparison for the Intensive Program in terms of cost effectiveness and appropriateness of care is really with inpatient treatment.

To be certain, cost effectiveness is an important consideration. The Intensive program to us is not primarily a numbers game even though I enjoy discussing savings such as those above. I am certain that our program is popular mainly because it is considered as more than just an adequate option for the literally hundreds of people who have been referred. I believe Rule 25 assessors look first at what might work for those they care about even realizing that any treatment is only a foothold. The Intensive Program is highly structured, however permits a balance of freedom that many persons even chronic, treatment recidivist crack addicted men or women can function well in. Of course, the program is not for everyone, however, for many

1814 So. Ferry Street Anoka, Mn. 55303 421-5590

persons even those who might otherwise be referred to inpatient treatment we do in fact offer the "Least Costly" "Least Restrictive" and most viable option. From the standpoint of quality of care, the many benefits of this program can be explained from our own observation, it is well established what referral persons are saying and especially the comments from those persons we have admitted and members of their families.

At the risk of this letter becoming too lengthy, Lee, the program features and details are discussed in the materials I have enclosed. One additional and vital element not discussed is our staff. The average experience of the counseling staff is eight years in inpatient and outpatient treatment, however these individuals have been selected mainly because of their love of chemically dependent persons and their ability to treat people with the maximum amount of dignity possible.

I can certainly appreciate and support the reasons for the proposed emergency changes. I believe these changes are for some of the same reasons or consistent with why we developed the Intensive Program in the first place. My concern has to do with our program or perhaps similar future programs for adult populations being cut off from those populations who can most benefit from this least costly, restrictive option. In other words, from cost saving and appropriate level of care standpoints the risk may be to "throw the baby out with the bath water", so to speak. This may prove not to be the case and after my discussion with you, I felt quite gratified and relieved. More specifically, my concerns, comments and questions are in three areas:

RE: Part 9530.6630 - If "primary rehabilitation" does not include outpatient treatment for purposes of the Rule, can this designation be expanded to include "intensive outpatient"? If this expanded use of "intensive outpatient" is not permitted, can Part 9530.6625 Item C "residential facility that controls access to chemicals" be interpreted to mean a place such as Riverhouse where the presence of or use of mood altering chemicals is a condition of stay (in other words the control of access to chemicals)? Please see the "Resident Handbook".

RE: Part 9530.6631 - Combination Inpatient/Outpatient - If Intensive Outpatient is a recognized method or considered by some as a successful model of CD treatment, can "intensive outpatient" also fit in this category. Could this Part also include the language "or intensive outpatient/outpatient combination"? Intensive outpatient at $2,360. alone will probably be less costly than combination inpatient/outpatient. If Intensive Outpatient could be combined with outpatient, the total cost for both may be less than $2,000. We already offer minimum 12 weeks of aftercare at no cost with five aftercare options available. Aftercare for the Intensive Program alumni also meets weekly at the Scott County Courthouse and in Minneapolis.

RE: Part 9530.6641 - Repeat Residential Placements - Extended care and treatment recidivists seem to be a group that respond well to the Intensive Program as well as others who may otherwise be placed in inpatient treatment or in some cases long term primary inpatient treatment. We welcome the opportunity to work with this population.

6/5/90

TO: Lee Gartner - page 3

I appreciate being able to share this information with you, Lee, and have been confident that if we in fact have first a high quality method of delivering treatment and secondly at a cost that is attractive, we will be able to survive. I realize Intensive Outpatient is somewhat different and that we have not exactly fit with what has been previously available, but the principles are the same. Having the opportunity to be innovative in light of needed change has been fun for me and our staff. This has been well worth the risk of current and future personal assets and some resulting fear that goes along with that. I realize that where the Intensive Program is going to be placed in terms of the regulations, or if it needs to be specifically included at all, is not up to me, however, I thought it important to send you this letter and information.

Thank you for your consideration.

Dennis Medved
Director

copy: Carolyn Pollard
State of Minnesota
Department of Human Services

COMMUNITY SERVICES DEPARTMENT
CHEMICAL HEALTH DIVISION
1800 Chicago Avenue
Minneapolis, Minnesota 55404-1999



June 5, 1990

Ms. Nancy Bishop
Rules Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULE OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING THE CHEMICAL DEPENDENCY CARE FOR PUBLIC ASSISTANCE RECIPIENTS, MINNESOTA RULES, PARTS 9530.6605, 9530.6625, 9530.6630, 9530.6631, 9530.6640, AND 9530.6641, AND THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND, MINNESOTA RULES, PARTS 9530.7000 AND 9530.7031.

Dear Ms. Bishop:

Attached are some specific comments relating to various subparts of the proposed emergency rule that I wish for you to consider in making any modifications prior to its adoption.

While I fully support the intent of the rule to reduce expenditures and to increase revenue, I believe that in many instances, low-income residents of Minnesota will be disserved, and that the true costs for their care will only be deferred. These concerns, as well as our support of other changes, are detailed below.

9530.6625 PLACEMENT CRITERIA FOR OUTPATIENT TREATMENT.

Item C.
We strongly support the addition of this criterion which allows for outpatient treatment when a chemically dependent person is residing in a facility that controls access to chemicals. This "least restrictive" combination of service has proven to be appropriate as well as cost-saving in programs that offer drug-free off-site housing.

9530.6630 PLACEMENT CRITERIA FOR PRIMARY REHABILITATION OR COMBINATION INPATIENT/OUTPATIENT TREATMENT.

Subp. 2. Type of Placement.
We are seriously concerned about the impact of limiting clients who meet the criteria in part 9530.6631 to placement in combination treatment programs, as explained below.

9530.6631 [Emergency] PLACEMENT CRITERIA FOR COMBINATION INPATIENT/OUTPATIENT TREATMENT.
This provision restricts clients otherwise eligible for primary rehabilitation to placement in combination inpatient/outpatient treatment if they have abstained from chemicals for at least 30 consecutive days in the past 180 days. This restriction does not take into account the rapidity and intensity under which a cocaine abuser can develop a dependency. For pregnant women in particular, the goal to discontinue substance abuse is overriding.

We strongly urge that this criteria be deleted and that counties be allowed to choose between primary rehabilitation, combination treatment, or outpatient treatment with supportive housing, in accordance with an individual's needs and with program availability at the time they are assessed. If not deleted, we strongly urge an explicit exclusion for pregnant women.

9530.6641 [Emergency] REPEAT RESIDENTIAL PLACEMENTS.
This new restriction prohibits placement in primary rehabilitation or extended care for any client who has participated in an extended care program for 21 consecutive days within the past 24 months. This prohibition lacks consideration of the tendency of some clients to leave a program early in treatment but to subsequently cooperate at the time of their next intervention/assessment. We believe it is shortsighted and more costly in the long run to deny such persons the most appropriate level of care. While our concern applies to men, women and juveniles, it is most serious for pregnant women and particularly women who are responsible for other children.

We strongly urge modification of this restriction. Suggested modifications are to apply it if a client has participated in extended care more than twice within the past 24 months; more than 90 consecutive days within the past 12 months; or if he/she returns for assessment/treatment more than 7 days after premature departure. If none of these suggestions is determined acceptable, then we strongly urge an explicit exclusion for pregnant women and for mothers.

9530.6650 EXCEPTIONS TO PLACEMENT CRITERIA.

Subp. 3. We fail to see the rationale for removing this exception which has allowed placement of some clients into lower-structured service alternatives as determined appropriate to their histories of chemical use and service utilization.

9530.7000 DEFINITIONS.

Subp. 9a. Custodial parent.
We strongly support this definition but suggest clarification by adding: "...with whom a minor child is residing at the time of the assessment".

9530.7031 [Emergency] VENDOR'S DUTY TO COLLECT CLIENT FEES.

A. We support the expansion of client fees to extended care programs for applicable clients. To date, this special fee liability solely for applicable halfway house residents has appeared arbitrary and discriminatory on the basis of level of care. It is not clear whether the 5 percent return of collected fees to providers will cover their additional costs in administering the fee program.

Sincerely,

Robert T. Ovander
Director, Chemical Health Division

RTO:er

cc: Janet Wiig, Assistant Commissioner
Kevin P. Kenney, Associate County Administrator
Mike Weber, Director, Hennepin County Community Services Department
Charles Hogan, Manager, Hennepin County Social Services Division
Peg Murphy, Hennepin County Chemical Health Division

Comments submitted regarding proposed Emergency Rules amending Minnesota Rules parts 9530.6620 to 9530.6670.

9530.6640 subitems A(3) and A(7) require documentation from medical or psychological personnel that certain conditions exist. "Street addicts" seldom access medical or psychological services except to illegally procure drugs, consequently, such documentation may not exist even in cases where the required conditions are obvious; i.e. a prospective client who has multiple injection scars accompanied by yellow eyes and skin color, or a prospective client has a history of bizarre and unexplainable criminal behavior, but because the criminal justice system always intervened, has never been seen by a psychologist. I would suggest that criteria be developed which allow documentation by the assessor when certain conditions are obvious as a result of the individuals physical characteristics or psychological demeanor or when such conditions are documented by a reputable representative of the criminal justice system.



9530.6640 subitem B is not in step with the real world as even the most severe addict has periodic moments of sobriety or withdrawal in a 24 month span. It should be changed to read ".....the client has been unable to maintain continuous sobriety for more than 7 days in a 24 month period."

9530.6641 is inconsistent with addressing problems associated with cocaine dependence (the #1 problem in public opinion polls) as cocaine addicts are prone to extreme anxiety for several months following their last usage. This condition is well documented and mutually agreed upon by all experts in the field. As a result of this, it is quite common for a client to leave treatment, Against Staff Advice; be gone for one or two days; and then return to successfully complete treatment and remain drug free. Counseling staff are the people best equipped to evaluate a clients prognosis for completing treatment once they have left and come back. To set the arbitrary number of 21 consecutive days of treatment, after which a client may not leave and return, then to go on to say that this client may not receive services s/he is assessed for, for an additional 2 years is ludicrous. At the very least the rule should state that this provision will not apply to someone who leaves and returns within a specified period of time, i.e. 72 hours. Given the extremely unstable nature of these clients, anything less is tantamount to sentencing them to an additional 2 years of addiction, and society to an additional 2 years of paying for that addiction.

Respectfully submitted,

Dan Cain
Executive Director



LAKE COUNTY SOCIAL SERVICE DEPARTMENT
HUMAN SERVICE CENTER

616 Third Avenue
TWO HARBORS, MINNESOTA 55616

June 4, 1990

WILLIAM T.GREEN
Director
Telephone (218) 834-8400



Ms. Nancy Bishop
Rules Division
Department of Human Services
444 Lafayette Rd.
St. Paul, MN 55155-3816

RE: Comments on Proposed Emergency Amendments to
Permanent Rules Relating to Chemical Dependency Care

Dear Nancy:

Thank you for the opportunity to comment on these proposed amendments.

I am very supportive of the Department's efforts to clarify many of the questions and problems that have arisen from these rules in the past. Overall the proposed amendments look very helpful. The clarification on who and how to collect client fees while in a halfway house are very timely.

I do have one major concern and objection to these proposed amendments, however. The changes regarding repeat residential placements that begin at line 34 on page 3 and end on page 4 at line 6 will have a significantly detrimental impact on some Lake County residents who will need chemical dependency treatment. Although the total number of Lake County clients using the C.C.D.T.F. is not extremely large, those that use extended care treatment can not have their needs met by a less restrictive environment. Clients in need of extended care treatment often are involved in complex multi-problem situations that require a flexible system to best serve and treat their needs. A system that cannot provide a restrictive setting when it is needed will not be an effective tool. I can foresee that should such a placement be necessary, the financial responsibility would be an additional burden placed on local public bodies. This expense could be significant and would not represent a savings as one might interpret from the cover letter to the proposed amendments. I would like to propose that this portion of the amendment be significantly modified or dropped in order to allow for reasonable usage of primary rehabilitation or extended care treatment, even if the client has been in extended care within the past two years.

I would like to be kept up to date on the further development of these amendments and I would appreciate your assistance in doing so.

Sincerely,

Dennis Henkel
Social Service Supervisor

DH:se
cc: W.T. Green, Director

1324 Fifth Street North
P.O. Box 577
New Ulm, MN 56073
507-354-2111

Sioux Valley Hospital
A Health One Hospital



May 24, 1990

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

RE: Proposed Emergency Amendments to Permanent Rules Relating to Chemical Dependency Care for Public Assistance Recipients and the Consolidated Chemical Dependency Treatment Fund

Dear Ms. Bishop:

I wish to provide several comments on the proposed rules revisions noted above.

Section 9530.6640, A, deals with the placement criteria for extended care. I believe that these criteria will result in placements to extended care programs which more appropriately belong in a primary rehabilitation program. For example, an individual with a DWI arrest in the last year, who is divorced and alienated from family, who denies any problem with chemical dependency, and who lost his/her job due to chemical use, would according to these criteria, need to be placed in extended care, irregardless of whether there have been any prior treatment attempts. I suggest that if there has been no previous treatment, primary inpatient treatment, or possibly a combination of primary inpatient and outpatient treatment would be a much preferred treatment approach, and one that will likely be more economical. My recommendation is that previous involvement in primary inpatient treatment within the past eighteen months, or participation in primary inpatient, halfway house, or extended care a total of four or more times in the client's lifetime, be required for consideration of extended care placement.

Section 9530.6641 restricts a client who has spent 21 consecutive days within the past 24 months in extended care, from being placed in primary inpatient or extended care treatment. I believe there needs to be some flexibility here to accommodate the needs and circumstances of all individuals. The physical or emotional condition of a particular client who falls under this restriction may necessitate at least a short term inpatient placement to be followed effectively by some outpatient

programming. I would recommend deleting this whole section, or rewrite it to allow for an inpatient admission but perhaps limit the length of allowable placement in these cases to 14 days.

Thank you for your consideration. Please feel free to call if you have any questions.

Sincerely,

Steve Schneider
Director of Behavioral Health Services

c.c. Ken Hicks
Diane Rasmussen

SS:rl

HUMAN SERVICES

REDWOOD COUNTY

Post Office Box 27
Redwood Falls, Minnesota 56283
Phone: [507] 637-5741 Voice/TDD





GORDON A. FRITZ, DIRECTOR

Nancy Bishop
Rules Division
Department of Human Services
444 Lafayette Road
St. Paul MN 55155-3816

May 22, 1990

RE: Data and Views on Proposed Changes of Rule 24 and 25

Dear Ms. Bishop

In reference 9530.6641 - just suppose we have a client in extended care for over 21 days. This client leaves extended care treatment against medical advice and twenty months later, his physical deterioration is finally noticed by his family and he is taken into family court and committed as chemically dependent and his commitment reads "rehabilitation in an extended care." Is there any provisions in this rule to allow the consolidated treatment fund to pay for that individual if he meets the criteria of finances.

Supposing we find an exception and he is funded by the Consolidated Treatment Fund, I then go up to the Vendor Shall Collect a Fee from Client and if the client fails to pay fee under this part shall be cause for discharge. First of all, committed clients do not want to be in treatment. I realize that the clients need to be responsible for their fee, but if the word gets out that if they don't pay, they can go home, two things come to mind. First of all, the court is not going to be very friendly to this agency and second, the family is liable to lynch us.

And just maybe I am missing something within the Rule 24 and 25 that would allow us to pay for these individuals who are committed by the courts. If so, please point it out to me.

Sincerely

SOCIAL SERVICE UNIT
REDWOOD COUNTY HUMAN SERVICES

Robert Schlicht
Robert Schlicht, CCDC
Chemical Dependency Counselor

RS/cj

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 18, 1990

Pete Benner
Executive Director
AFSCME Council 6, AFL-CIO
265 Lafayette Road
St. Paul, MN 55107-1683

Dear Mr. Benner:

Thank you for your comments concerning the proposed emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6655 (known as Rule 25).

The concerns you expressed will be taken into consideration as the department prepares final language for these amendments.

If you would like to discuss this further please contact me at 296-8574.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

cc: Mike Morrell
Tom Beer

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 14, 1990

The Honorable Florian Chmielewski
Minnesota Senate
President Pro Tem of the Senate
Room 325 State Capitol
St. Paul, MN 55155

Dear Senator Chmielewski:

Thank you for your letter of June 7, 1990.

The Department of Human Services was directed by the 1990 legislature (in Minnesota Laws, 1990, Chapter 568, Article 2, Section 91), to amend Minnesota Rules, parts 9530.6600 to 9530.7030, by emergency rulemaking. The legislation specifies the nature of the amendments in some detail (copy attached).

The amount of funds provided for the Consolidated Chemical Dependency Treatment Fund for FY 1991 was based on the estimated savings to be accomplished by these emergency amendments to the rules.

To choose not to adopt emergency rule amendments mandated by the legislature would both make it impossible to provide any treatment services to some eligible clients within the funds appropriated and place the department out of compliance with law.

It appears that the Department has no choice but to adopt rules which will address the issues cited in chapter 568, meet existing budget constraints and, within that framework, provide the most appropriate treatment to the greatest number of clients.

If you have access to the national standards referenced in your letter which will aid in the accomplishment of these objectives, please forward a copy of them. They will be a great help as the department prepares the final language of the emergency rule amendments.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 13, 1990

Dennis Henkel
Social Service Supervisor
Lake County Social Service Department
616 Third Avenue
Two Harbors, MN 55616

Dear Mr. Henkel:

Thank you for your comments concerning the emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6655 (known as Rule 25) and to 9530.7031 (Vendor's Duty to Collect Client Fees).

The concern you expressesd will be taken into consideration as the department prepares final language for these amendments. For your information, the proposed amendment regarding repeat residential placements would not affect persons who are committed. The exception for committed clients in part 9530.6650 will not be changed.

I would think that some of the clients mentioned in your letter would be committed.

About the process: The comment period, as you know, closes June 15, 1990. During the last two weeks of June, the Department will review the comments and decide on final rule language. The final language must then be certified by the revisor and approved by the Attorney General's office. We anticipate an effective date on or about August 1, 1990.

At any time that you would like to know the status of the emergency amendments, please contact me at 612/296-8574.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 13, 1990

Dennis Medved
Director
Riverplace Counseling Center
1814 So. Ferry Street
Anoka, MN 55303

Dear Mr. Medved:

Thank you for your comments regarding the proposed emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6650. I also appreciate the time you took last week to acquaint me with the Riverplace program.

The types of programs cited in the rule criteria are based on the type of license a program holds. This method of designation allows for consistent definition and interpretation. Because there is no consistently recognized definition of "intensive outpatient" it would be extremely difficult to specifically reference that term in the proposed amendments.

However, any facility that has rules prohibiting the use of alcohol or other drugs and a method of enforcing those rules would be considered "a residential facility that controls access to chemicals". Riverplace would certainly appear to be such a facility.

As we discussed, I do not believe the proposed emergency amendments will decrease appropriate referrals to your program from public referral agents. The amendments may even increase the attractiveness of your program when assessors are working with clients who meet the repeat residential placement criteria.

If you wish to discuss this further, please contact me at 296-8574.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 13, 1990

Robert Olander, Director
Hennepin County Chemical Health Division
1800 Chicago Avenue
Minneapolis, MN 55404-1999

Dear Mr. Olander:

Thank you for your comments regarding the proposed emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6650 and part 9530.7031.

Your comments have raised some serious issues and will be considered as the department decides on final language for these amendments.

On a couple of minor points:

9530.6650: The department proposes to delete the exception to extended care placement because it is superceded by the proposed 9530.6641.

9530.7031: The five percent return to vendors is set in law. However, we do assume that it will very nearly, if not completely, cover any cost to the vendor associated with implementation of the new responsibilities.

If you would like to discuss these amendments further, please contact me at 296-8574.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 18, 1990

Steve Schneider
Director of Behavioral Health Services
Sioux Valley Hospital
1324 Fifth Street North
New Ulm, MN 56073

Dear Mr. Schneider:

Thank you for your comments on the proposed emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6641.

Your comments will be helpful in determining the final language of the emergency provisions.

If, at any time, you would like to know the status of these amendments, please contact me at 612/296-8574.

Sincerely,

Lee Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 18, 1990

Robert Schlicht
Redwood County Human Services
P.O. Box 27
Redwood Falls, MN 56283

Dear Mr. Schlicht:

Thank you for your letter concerning proposed changes in Rules 24 and 25.

First, concerning your question about committed clients. The exception to the placement criteria for committed clients contained in Minnesota Rules, part 9530.6650 will remain unchanged and will apply to the emergency amendment, part 9530.6641. That new provision should have no affect on the placement of committed clients.

Next, concerning client discharge for nonpayment of a fee. It will be, under the emergency rule provision, up to the program to decide whether or not it will discharge clients who do not pay their fees. I would guess that programs in which committed clients are placed are not likely to adopt such discharge policies (only a guess).

If I can be of further assistance in clarifying these amendments, please contact me at 296-8574.

Sincerely,

Lee Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

p.s. It would really be too bad if someone lynched you.

sdv

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DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 18, 1990

Brenda Otto
Director of Adult Services
Olmsted County Community Services
2116 Campus Drive S.E.
Rochester, MN 55904

Dear Ms. Otto:

Thank you for your comments on the proposed emergency rule amendments.

They will be of assistance to the department as the final language for these amendments is developed.

A couple of specific issues:

1. Concerning the courts: After the emergency rules are adopted the department will be reconsidering them in a more public rulemaking process. At that time all parts of Minnesota Rules, parts 9530.6600 to 9530.6655 (Rule 25) will be open for discussion. That will be an appropriate forum for the concerns of the courts.

2. Alternative placements for chronics: I am aware of at least one board and lodging facility available to Olmsted County residents. Also, please note, the Repeat Residential Placements provision will not apply to clients committed by the probate court. Lastly, it is our hope that you and your staff will work with chemical dependency treatment providers (or potential providers) to develop specialized outpatient programs for this client group.

3. Combination Inpatient/Outpatient: Other counties have found that combination programming can be accompanied with minimal lead time. If you are interested in pursuing this, I suggest you contact Dave Lenarz at Brown County Social Services.

Thank you again for your assistance and feedback.

Sincerely,

Lee Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38 23

June 18, 1990

Pete Benner
Executive Director
AFSCME Council 6, AFL-CIO
265 Lafayette Road
St. Paul, MN 55107-1683

Dear Mr. Benner:

Thank you for your comments concerning the proposed emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6655 (known as Rule 25).

The concerns you expressed will be taken into consideration as the department prepares final language for these amendments.

If you would like to discuss this further please contact me at 296-8574.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

cc: Mike Morrell
Tom Beer

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

May 30, 1990

Dan Cain
Executive Director
Eden Programs
1025 Portland Ave.
Minneapolis, MN 55404

Dear Mr. Cain:

Thank you for your comments on the proposed emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6655.

Part 9530.6640, subitems A(3) and A(7) are not being amended at this time. Your suggestions will be considered as the department develops the permanent rule changes.

Your recommendations concerning parts 9530.6640 and 9530.6641 raise serious issues.

Based on your input the department is considering modification of the emergency rules before final publication.

Thank you again.

Sincerely,

Lee V. Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 13, 1990

Dennis Henkel
Social Service Supervisor
Lake County Social Service Department
616 Third Avenue
Two Harbors, MN 55616

Dear Mr. Henkel:

Thank you for your comments concerning the emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6655 (known as Rule 25) and to 9530.7031 (Vendor's Duty to Collect Client Fees).

The concern you expressesd will be taken into consideration as the department prepares final language for these amendments. For your information, the proposed amendment regarding repeat residential placements would not affect persons who are committed. The exception for committed clients in part 9530.6650 will not be changed.

I would think that some of the clients mentioned in your letter would be committed.

About the process: The comment period, as you know, closes June 15, 1990. During the last two weeks of June, the Department will review the comments and decide on final rule language. The final language must then be certified by the revisor and approved by the Attorney General's office. We anticipate an effective date on or about August 1, 1990.

At any time that you would like to know the status of the emergency amendments, please contact me at 612/296-8574.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 26, 1990

Gene Anderson
Willmar Regional Treatment Center
Box 1128
1550 Highway 71 NE
Willmar, MN 56201

Dear Mr. Anderson:

Thank you for your comments concerning the proposed emergency amendments to Rule 25.

While the public comment period is limited when emergency rules are being prepared, they are temporary and must be replaced within a year with permanent rules.

The permanent rulemaking process includes a task force to advise in the development of the draft, a public hearing and a public comment period. There are, as you see, several opportunities for interested parties to have input.

I hope you will participate in that process. If I can provide further clarification please contact me at 612/296-8574.

Sincerely,

Lee V. Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 26, 1990

L.M. Norby
Fergus Falls Regional Treatment Center
Box 157
Fergus Falls, MN 56537-0157

Dear Mr. Norby:

Thank you for your comments concerning the proposed emergency amendments to Rule 25.

Emergency rules are temporary and must be replaced within a year with permanent rules.

The permanent rulemaking process includes a task force to advise in the development of the draft, a public hearing and a public comment period. There are, as you see, several opportunities for interested parties to have input.

I hope you will participate in that process. If I can provide further clarification please contact me at 612/296-8574.

Sincerely,

Lee V. Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3823

June 26, 1990

Greg Jones
Vinland National Center
P.O. Box 308
Loretto, MN 55357

Dear Greg:

Thank you for your comments on the emergency rule amendments. They will be seriously considered as the Department prepares the final version of these amendments.

As you know, the emergency rules are temporary. They must be replaced, within a year, with permanent rules. The permanent rulemaking process both allows greater consideration of the issues and requires greater public input.

I hope you plan to participate in that process.

Sincerely,

Lee V. Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

June 27, 1990

The Honorable Don Samuelson
Minnesota Senator
124D State Capitol
St. Paul, MN 55155

Dear Senator Samuelson:

Thank you for your comments concerning the proposed emergency amendments to Minnesota Rules, parts 9530.6600 to 9530.6655 (known as Rule 25).

The concerns you expressed will be taken into consideration as the department prepares final language for these amendments.

If you would like to discuss this further please contact me at 296-8574.

Sincerely,

Lee V. Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

/ts

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

July 3, 1990

LaVern Thompson
Fergus Falls Regional Treatment Center
North Union Avenue, Box 157
Fergus Falls, Minnesota 56537-0157

Dear Ms. Thompson:

Thank you for your comments concerning the proposed emergency amendments to Rule 25.

While the public comment period is limited when emergency rules are being prepared, they are temporary and must be replaced within a year with permanent rules.

The permanent rulemaking process includes a task force to advise in the development of the draft, a public hearing and a public comment period. There are, as you see, several opportunities for interested parties to have input.

I hope you will participate in that process. If I can provide further clarification please contact me at 612/296-8574.

Sincerely,

Lee V. Gartner

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

/ts

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER