

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: September 28, 1990

TO: ELEANOR WEBER
Rules and Bulletins Division
Minnesota Dept. of Human Services

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Community Health Clinic Services Eligible for Medical Assistance Payment

The above-referenced rule has been approved as to its legality by the Attorney General on September 26, 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.

MJC:sc

cc: Beverly Jones Heydinger
William Brown, Chief Judge
MaryAnn Hruby

MJC

RULE REVIEW CHECKLIST

File No. 1734
DATE RECEIVED 9-13-90
REVIEW DATE 9-24-90
DUE DATE 9-27-90
(DIS)APPROVED 9-26-90 mjc
WITHDRAWN _____

Docket No. 05 0009 0875
ADOPTED W/O HEARING ✓
EMERGENCY RULE NA
TO REVISOR ON 9-14-90
REVISOR (DIS)APPROVED 9/21/90
FILED W/SEC. OF STATE 9/26/90
RETURNED TO AGENCY 9/28/90

___ ✓ Rule as adopted (4 copies)

___ ✓ Notice to Solicit Outside Information/Opinion (if applicable)
June 18, 1990 Date published in State Register
_____ Comments

___ ~~Petition for Adoption of a Rule~~

___ ~~Board's Authorizing Resolution~~
_____ ~~Date adopted~~

___ Proposed Rule
_____ Revisor's Certificate

___ ✓ Notice of Intent to Adopt Rule
256B.04 sub 2 Statutory Authority
NA Small Business Statement
NA Expenditure of public money statement
_____ Signature

___ ✓ Statement of Need and Reasonableness (if applicable)
NA Small Business Statement
_____ Fees - § 16A.128

___ ✓ Affidavit of Mailing Notice of Intent to Adopt Rule
July 25, 1990 Dated (30)/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached

___ ✓ Publication in State Register
July 30, 1990 Date (30)/25 days before adoption

___ ✓ 180-day deadline from:
NA Effective date of law requiring rule (14.12) (both rules) amendments don't apply amendment
✓ 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
~~Sept 12, 1990~~ Date

___ ~~Written Requests, Submissions or Comments~~

___ ✓ Declaration of Attorney
~~Ben Heydinger~~ Name of SAAG representing agency

___ ✓ ~~Notice of Submission to Attorney General~~ (if applicable)

___ ~~Affidavit of Mailing Notice to Attorney General~~ (if applicable)

Department of Human Services

Adopted Permanent Rules Relating to Community Health Clinic Services Eligible for Medical Assistance Payment

Rules as Adopted

9505.0255 COMMUNITY HEALTH CLINIC SERVICES.

Subpart 1. **Definition.** "Community health clinic service" means a health service provided by or under the supervision of a physician in a clinic that meets the criteria listed in items A to D. The clinic:

A. has nonprofit status as specified in Minnesota Statutes, chapter 317; and

B. has tax exempt status as provided in Internal Revenue Code, section 501(c)(3) as amended through October 4, 1976, or is established as a hospital authority under Minnesota Statutes, section 144.581, or is operated under the control of the commissioner under Minnesota Statutes, section 246.01; and

C. is established to provide health services to low income population groups; and

D. has written clinic policies as provided in subpart 4.

[For text of subps 2 to 4, see M.R.]

APPROVED AS TO FORM AND LEGALITY

September 26 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Casserly

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 26 1990

Joan Anderson Growe
Secretary of State

4:17 P.M. M

Stat Auth. 256B.04 subd 2

The State agency shall:

Make uniform rules, not inconsistant with law, for carrying out and enforcing the provisions hereof in an efficient, economical, and impartial manner

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
404 Capital Office Building
525 Park Street

FROM: Eleanor Weber

SUBJECT: Review of a Rule Adopted Without a Public Hearing: Community Health Clinic Services Eligible for Medical Assistance Payment, Minnesota Rules, Part 9505.0255, Subpart 1

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

Official documents in this submitted material include:

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

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

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

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

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

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

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

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

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

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

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

11. No requests to be notified of submittal of the rule to the Attorney General.

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

Department of Human Services

Health Care Management Division

Notice of Solicitation of Outside Information or Opinion Regarding Proposed Amendments of Rules Governing Medical Assistance Reimbursement of Community Health Clinic Service Providers

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing medical assistance reimbursement of community health clinic service providers, *Minnesota Rules*, part 9505.0255. The amendment of the rule is authorized by *Minnesota Statutes*, section 256B.04, subdivision 2 which requires the agency to make uniform rules governing the administration of the medical assistance system in an efficient, economical, and impartial manner and *Minnesota Statutes*, section 256B.0625, subdivision 4 which establishes community health clinic services as covered services in the medical assistance program. The amendment will facilitate the enrollment of the State's regional treatment centers as community health clinic service providers by exempting the centers from the requirement to obtain tax exempt status as provided in Internal Revenue Code, section 501(c)(3).

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

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

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

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

Department of Labor and Industry

Notice of Correction to Prevailing Wage Rates

The prevailing wage rate certified February 1, 1990 for labor code 203-Dragline, excavator/crawler backhoe or other similar equipment with shovel type controls, on highway and heavy construction projects in Crow Wing County has been corrected.

Copies of the corrected rates may be obtained by contacting the Department of Labor and Industry, Labor Standards Division, 443 Lafayette Road, St. Paul, Minnesota 55155.

Ken Peterson
Commissioner

Metropolitan Council

Notice of Preliminary Schedule for the Examination of Metropolitan Council Policies for the Rural Service Area

The Metropolitan Council's rural service area policies are part of its *Metropolitan Development and Investment Framework* (MDIF). The MDIF is the plan that sets a general direction for future development patterns in the Metropolitan Area. It also establishes guidelines for making decisions about major regional facilities, like sewers and highways, that are needed to support commercial, industrial and residential development. The focus of the Council's strategy on directing growth in the region is to encourage development to occur within the "urban service area," where such facilities and services are provided.

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to the Rule of the State Department of Human Services Governing Community Health Clinic Services Eligible for Medical Assistance Payment, Minnesota Rules, Part 9505.0255, Subpart 1, Definition

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

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

(2) All persons have 30 days or until 4:30 p.m. on August 29, 1990 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

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

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

(11) Minnesota Rules, part 9505.0255 establishes the conditions for a facility providing health services to be eligible to receive medical assistance payment for community health clinic services to recipients. Subpart 1 of part 9505.0255 defines the term "community health clinic service" and lists four required criteria including tax exempt status. The proposed amendment expands the

means to establish tax exempt status.

(11) A free copy of 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.

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

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

Nancy Bishop
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 296 7454

(13) Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

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

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

Date: July 13, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULES OF THE DEPARTMENT OF HUMAN SERVICES GOVERNING ELIGIBILTY TO RECEIVE PAYMENT AS A PROVIDER OF COMMUNITY HEALTH CLINIC SERVICES IN THE MEDICAL ASSISTANCE PROGRAM, MINNESOTA RULES, PART 9505.0255, SUBPART 1, DEFINITION

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

Minnesota Rules, parts 9505.0170 to 9505.0475 establish the standards to receive payment as a provider of health services to medical assistance recipients.

The medical assistance program in Minnesota is the joint federal-state program that implements the provisions of Title XIX of the Social Security Act by providing for the medical needs of low income or disabled persons and families of dependent children. (See United States Code, title 42, section 1396a.) Code of Federal Regulations, Title 42, section 431.10, (hereafter abbreviated as 42 CFR 431.10) requires a state to designate a single agency to supervise the administration of a state's medical assistance program. The Department of Human Services has been so designated in Minnesota Statutes, section 256B.04, subdivision 1. Furthermore, 42 CFR 431.10 requires the state agency so designated to make rules and regulations that it will follow in administering

the State Plan.

The State Plan is the comprehensive written commitment of the department to administer and supervise the medical assistance program according to federal regulations. Correspondingly, Minnesota Statutes, section 256B.04, subdivision 2 requires the Commissioner of Human Services to establish "uniform rules and regulations, not inconsistent with law" to ensure that the medical assistance program will be carried out in an efficient, economic, and impartial manner. Further justification for the rule is found in Minnesota Statutes, section 256B.04, subdivision 4 which states, in part, that the department shall cooperate with the federal government "in any reasonable manner as may be necessary to qualify for federal aid in connection with the medical assistance program...". Thus authority for the rule is derived from both federal and state law.

Rules to administer Minnesota's medical assistance program are necessary because they set uniform standards which can be objectively applied. Furthermore, these rules inform the public and affected persons of the medical assistance requirements that a provider must meet to receive medical assistance payment for a health service to a recipient. The present rules establishing these requirements, parts 9505.0170 to 9505.0475, except for parts 9505.0323 and 9505.0335, became effective November 1, 1987. Minnesota Statutes, chapter 256B, establishes a statewide program of medical assistance and specifies in section 256B.0625 those mandatory and optional services that are eligible for medical

assistance payment in Minnesota.

As required in Minnesota Statutes, sections 256B.04, subdivisions 2 and 12, part 9505.0255 (which is included within parts 9505.0170 to 9505.0475) establishes limits on the types and frequency of health services that are eligible for medical assistance payment when provided to a recipient by a community health clinic.

The amendment of subpart 1 of part 9505.0255, Community Health Clinic Services, if adopted, will permit certain nonprofit corporations to provide community health clinic services without applying for and receiving tax exempt status as provided in Internal Revenue Code, section 501 (c)(3) as amended through October 4, 1976.

9505.0255 COMMUNITY HEALTH CLINIC SERVICES

Subpart 1. Definition. Minnesota Statutes, section 256B.0625, subdivision 4 specifies that nonprofit community health clinic services to recipients are eligible for medical assistance payment but does not define the term or the term "clinic". A definition is necessary to clarify its meaning and the meaning of the term "clinic". This subpart defines the term "community health clinic service" as a health service provided by or under the supervision of a physician in a clinic and specifies, in items A to D, four criteria that a clinic must meet to be a provider.

The second of these criteria, item B, requires the clinic to obtain tax exempt status as provided in the Internal Revenue Code, section 501 (c)(3). Under section 501 (c)(3) tax exempt status is available only to organizations that have validated their non-profit nature. Minnesota Statutes, section 144.581 specifies that

certain organizations and the hospitals operated by them are of a nonprofit nature and thus are tax exempt under federal and state law. These entities include regional treatment centers and other institutions under the control of the commissioner and hospitals operated by county governments such as Hennepin County Medical Center. Because state law establishes their nonprofit nature, it would be duplicative and administratively inefficient to require the clinics associated with these entities to further validate their nonprofit nature by obtaining tax exempt status under federal law. The proposed amendment of item B will provide an alternate means for these entities to validate their non-profit nature. As a result, the medical assistance provider enrollment of community health clinics in hospitals owned by a governmental entity and in regional treatment centers and other facilities operated under the control of the commissioner will be accomplished in an administratively efficient manner and be eligible to receive medical assistance payments for the health services provided to recipients.

The expected clientele of the regional treatment centers consists of persons with developmental disabilities who live in state operated community facilities (SOCS) or private group homes in communities adjacent to the centers and some of whom formerly were residents of the regional treatment centers. These persons have health service needs that can only be met by staff trained and experienced in treating this type of client. A report prepared for the Department of Human Services, Ancillary Care Services for Residents of the SOCS Facility in August 1989, found that these

clients with developmental disabilities have extensive health service needs. Examples of their needed services are physical therapy, occupational therapy, speech-language treatment, psychological and behavior modification services, and dental care adapted to their special circumstances. These services often are not available in the communities where the persons with developmental disabilities live. To receive the necessary services from trained and experienced staff, SOCS residents have been returning to regional treatment centers on an outpatient basis. The present staff of the regional treatment centers who are trained and experienced have been providing the necessary services. However, the regional treatment centers have not been able to receive medical assistance or other third party payments for these services to persons who are not residents of the centers because the centers are not enrolled as a provider type recognized by medical assistance, Medicare, or the insurance industry.

Regional treatment centers are state operated hospitals providing care to persons with developmental disabilities, with mental illness, and with brain injuries. See Minnesota Statutes, sections 252.025 and 253.015. They are operated by the Department of Human Services. Under Minnesota Statutes, section 144.581, subdivision 1, the state agency operating such a hospital has the "authority and legal capacity of a nonprofit corporation under Minnesota Statutes, chapter 317...." A regional treatment center is operated by the state as a nonprofit entity. Thus a regional treatment center as an entity operated by a state agency that has nonprofit status established pursuant to Minnesota law clearly meets the test

required for tax exemption under Internal Revenue Code section 501 (c)(3). It is reasonable therefore to amend item B so that a hospital authority established pursuant to Minnesota Statutes, section 144.581 would be a criterion equivalent to tax exempt status under the Internal Revenue Code because such a criterion would eliminate unnecessary paperwork, reduce administrative costs associated with applying for tax exempt status, and facilitate the enrollment of regional treatment centers as medical assistance providers. Additionally, the enrollment would enable the state to receive federal financial participation and other third party payments in meeting the costs of services it is now providing to SOCS and private group home residents at state and county expense.

Expert Witnesses

In the event that a public hearing is held in regard to the proposed rule amendment, the Department does not plan to present expert witnesses from outside the Department to testify on behalf of the rule.

Small Business Considerations

This rule is exempt from the small business considerations in rulemaking under Minnesota Statutes, section 14.115, subdivision 7, paragrpahs (b) and (c).

Date: July 13, 1990

ANN WYNIA
Commissioner of Human Services

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to the Rule of the State Department of Human Services Governing Community Health Clinic Services Eligible for Medical Assistance Payment, Minnesota Rules, Part 9505.0255, Subpart 1, Definition

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Joyce Pederson, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list which is accurate, complete, and current as of this 25th day of July, 1990.

That on the 25th day of July, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Joyce Pederson

Subscribed and sworn to before me this 25 day of July, 1990.

Claudia A. Eliason

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

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to the Rule of the State Department of Human Services Governing Community Health Clinic Services Eligible for Medical Assistance Payment, Minnesota Rules, Part 9505.0255, Subpart 1, Definition

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

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

All persons have 30 days or until 4:30 p.m. on August 29, 1990 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

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

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

Minnesota Rules, part 9505.0255 establishes the conditions for a facility providing health services to be eligible to receive medical assistance payment for community health clinic services to recipients. Subpart 1 of part 9505.0255 defines the term "community health clinic service" and lists four required criteria including tax exempt status. The proposed amendment expands the

means to establish tax exempt status.

A free copy of 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.

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

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

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Rules and Bulletins Division
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444 Lafayette Road
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Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

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

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Date: July 13, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to the Rule of the State Department of Human Services Governing Community Health Clinic Services Eligible for Medical Assistance Payment, Minnesota Rules, Part 9505.0255, Subpart 1, Definition

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 25th day of July, 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
- 6 Regional Treatment Centers
- 5 Hospitals and Nurses Assoc.

Joyce Pederson

Subscribed and sworn to before me
this 25 day of July, 1990
Claudia A. Eliason

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

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Amendments to the Rule of the State Department of Human Services Governing Community Health Clinic Services Eligible for Medical Assistance Payment, Minnesota Rules, Part 9505.0255, Subpart 1, Definition

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Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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Nancy Bishop
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 296 7454

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

Date: July 13, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

Department of Human Services

Proposed Permanent Rules Relating to Community Health Clinic Services Eligible for Medical Assistance Payment

Notice of Intent to Adopt a Rule Without a Public Hearing

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

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444 Lafayette Road
St. Paul, MN 55155-3816

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

Minnesota Rules, part 9505.0255 establishes the conditions for a facility providing health services to be eligible to receive medical assistance payment for community health clinic services to recipients. Subpart 1 of part 9505.0255 defines the term "community health clinic service" and lists four required criteria including tax exempt status. The proposed amendment expands the means to establish tax exempt status.

A free copy of 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.

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from:

Nancy Bishop
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 296-7454

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

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

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

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

Ann Wynia
Commissioner of Human Services

Rules as Proposed

9505.0255 COMMUNITY HEALTH CLINIC SERVICES.

Subpart 1. **Definition.** "Community health clinic service" means a health service provided by or under the supervision of a physician in a clinic that meets the criteria listed in items A to D. The clinic:

A. has nonprofit status as specified in *Minnesota Statutes*, chapter 317; and

B. has tax exempt status as provided in Internal Revenue Code, section 501(c)(3) as amended through October 4, 1976, or is established as a hospital authority under *Minnesota Statutes*, section 144.581, or is operated under the control of the commissioner under *Minnesota Statutes*, section 246.01; and

C. is established to provide health services to low income population groups; and

D. has written clinic policies as provided in subpart 4.

[For text of subps 2 to 4, see M.R.]

Department of Human Services

Proposed Permanent Rules Relating to Nursing Home Preadmission Screening and Alternative Care Grant Program

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in the *Minnesota Statutes*, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.091, subdivisions 8 and 9.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. PLEASE NOTE **that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on Tuesday, September 18, 1990, unless a sufficient number withdraw their request, in accordance with the notice of public hearing on these same rules published in this *State Register* and mailed to persons registered with the Department of Human Services.** To verify whether a hearing will be held, please call the Department of Human Services between August 30, 1990 and September 17, 1990 at (612) 297-4301.

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

In the Matter of the Adoption
of Amendments to the Rule of the
State Department of Human Services
Governing Community Health Clinic
Services Eligible for Medical Assistance
Payment, Minnesota Rules, Part 9505.0255,
Subpart 1, Definition

DECLARATION OF
COUNSEL

I, Beverly Jones Heydinger, 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 0875.

Beverly Jones Heydinger
Assistant Attorney General

Dated: September 11, 1990

Department of Human Services

Proposed Permanent Rules Relating to Community Health Clinic Services Eligible for Medical Assistance Payment

Rules as Proposed

9505.0255 COMMUNITY HEALTH CLINIC SERVICES.

Subpart 1. **Definition.** "Community health clinic service" means a health service provided by or under the supervision of a physician in a clinic that meets the criteria listed in items A to D. The clinic:

A. has nonprofit status as specified in Minnesota Statutes, chapter 317; and

B. has tax exempt status as provided in Internal Revenue Code, section 501(c)(3) as amended through October 4, 1976, or is established as a hospital authority under Minnesota Statutes, section 144.581, or is operated under the control of the commissioner under Minnesota Statutes, section 246.01; and

C. is established to provide health services to low income population groups; and

D. has written clinic policies as provided in subpart 4.

[For text of subps 2 to 4, see M.R.]

Approved by Revisor KTH

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Community Health Clinic Services Eligible for Medical Assistance Payment

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9505

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

In the Matter of the Adoption
of Amendments to the Rule of the
State Department of Human Services
Governing Community Health Clinic
Services Eligible for Medical Assistance
Payment, Minnesota Rules, Part 9505.0255,
Subpart 1, Definition

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

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on Monday, July 30, 1990 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on July 25, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the agency. Therefore the agency did not receive request for a public hearing from 25 or more persons which were not withdrawn. (7) No requests for notice of submission to the attorney general were received by the agency.

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

(9) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Minnesota Rules, part 9505.0255, Subpart 1 is adopted this 12 day of September, 1990, pursuant to authority vested in me by Minnesota Statutes, section 256B.04, subdivision 2.

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

Minnesota Nurses Association
1295 BANDANA BLVD. NO., SUITE 140
ST. PAUL, MINNESOTA 55108-5115
(612) 646-4807

June 26, 1990

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

Dear Ms. Weber:

We are writing to let you know that the Minnesota Nurses Association is interested in the Department's amendments of rules governing Medical Assistance Reimbursement of Community Health Clinic Service Providers. While we have no specific opinion to share at this time, we would appreciate notice of any meetings on this subject or copies of draft rules that are made available in the future.

Sincerely,

Gretchen Musicant

Gretchen Musicant, RN, MPH
Staff Specialist, Governmental Affairs

Susan Stout

Susan Stout, RN
Staff Specialist, Governmental Affairs

GM:kae/Weber
6/26/90

DEPARTMENT OF HUMAN SERVICES
AMENDMENT OF
MINNESOTA RULES, PART 9505.0255, SUBPART 1, ITEM B
COMMUNITY HEALTH CLINIC SERVICES, DEFINITION
FISCAL INFORMATION

NET FISCAL IMPACT OF RULE

	Year 1	Year 2
State costs	Net savings*	Net savings
Local costs	Net savings	Net savings

*See text below.

Summary of Proposed Rule Amendment

The proposed amendment to Minnesota Rules, part 9505.0255, subpart 1, would provide an alternative means for certain nonprofit entities such as clinics that are associated with hospitals operated by governmental agencies and clinics operated by regional treatment centers and other institutions under the control of the commissioner to establish their tax exempt status. The tax exempt status is a condition to enroll as a provider of community health clinic services. Clinic services provided by such clinics would become reimburseable under medical assistance, Medicare, and other third party payers. Availability of this reimbursement would save state and local dollars that are now paying for these services.

Background

At present, regional treatment centers provide clinical services on an outpatient basis to persons with developmental disabilities who live in state operated community facilities or group homes. These services cannot be billed separately to medical assistance, Medicare, or other third party payers. The cost of these services is included in the regional treatment center's per diem rate, an all inclusive rate charged to residents of the regional treatment centers.

Revenue will be realized by billing third parties for services provided on an outpatient basis. New revenue will be received from private insurers, Medicare, and the federal government's financial participation in medical assistance. Additionally, the unnecessary expenditure of administrative costs associated with applying for section 501 (c) (3) tax exempt status will be avoided.

The Department does not have exact data about the projected amount of the cost savings and additional revenue.

Date: July 13, 1990

ANN WYNIA
Commissioner of Human Services