

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

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RULE REVIEW CHECKLIST

File No. 1764
DATE RECEIVED 11-30-90
REVIEW DATE 12-9-90 12-10-90
DUE DATE ~~12-14-90~~
(DIS)APPROVED 12-12-90
WITHDRAWN _____

Docket No. 05.0509.0871
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 12-5-90
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 12-13-90
RETURNED TO AGENCY _____

_____ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
August 15, 1988 Date published in State Register October 24, 1988
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

_____ Proposed Rule
_____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
254B.03 subd 5 Statutory Authority missing second page is going to send it.
_____ Small Business Statement
_____ Expenditure of public money statement
August 5, 1990 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
~~April 18, 1990~~ Dated 30/25 days before adoption April 18, 1990 May 2, 1990
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
April 23, 1990 Date 30/25 days before adoption resubmitted May 7, 1990

_____ 180-day deadline from:
NA Effective ~~date of law requiring~~ rule (14.12) (both rules) amendments don't apply
_____ end of comment period (§ 14.26) (rules without hearing)
✓ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting see my notes O.K. 176 days
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
November 19, 1990 Date

✓ Written Requests, Submissions or Comments

_____ Declaration of Attorney
Wm. Mondale Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: December 17, 1990

TO: ALICE WECK
Department of Human Services

FROM: CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund

The above-referenced rule has been approved as to its legality by the Attorney General on December 12, 1990.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of tne notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

CH:sc
Enclosures
cc: William Brown, Chief Judge
MaryAnn Hruby
William Mondale

Department of Human Services

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

Rules as Adopted

9530.6655 APPEALS. [AMENDMENTS WITHDRAWN.]

9530.7000 DEFINITIONS.

[For text of subps 1 to 12, see M.R.]

Subp. 13. **Income.** "Income" means the total amount of cash received by an individual from the following sources:

A. cash payments for wages or salaries;

B. cash receipts from nonfarm or farm self-employment, minus deductions allowed by the federal Internal Revenue Service for business or farm expenses;

C. regular cash payments from social security, railroad retirement, unemployment compensation, workers' union funds, veterans' benefits, Aid to Families with Dependent Children, Supplemental Security Income, General Assistance, training stipends, alimony, child support, and military family allotments;

D. cash payments from private pensions, government employee pensions, and regular insurance or annuity payments;

E. cash payments for dividends, interest, rents, or royalties; and

F. periodic cash receipts from estates or trusts.

Income does not include capital gains; any cash assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; tax refunds, gifts, lump sum inheritances, one time insurance payments, or compensation for injury; court-ordered child support or health insurance premium payments made by the client or responsible relative; and noncash benefits such as health insurance, food or rent received in lieu of wages, and noncash benefits from programs such as Medicare, Medical Assistance, Food Stamps, school lunches, and housing

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assistance. Annual income is the amount reported and verified by an individual as current income calculated prospectively to cover one year.

[For text of subps 14 to 17, see M.R.]

Subp. 17a. **Policyholder.** "Policyholder" means a person who has a third party payment policy under which a third party payment source has an obligation to pay all or part of a client's treatment costs.

Subp. 18. **Rehabilitation program.** "Rehabilitation program" means a program of chemical dependency rehabilitation defined in part 9530.4100, subpart 22, as a category II, III, or IV program licensed under parts 9530.4100 to 9530.4450 and Minnesota Statutes, chapter 245A.

Subp. 19. **Responsible relative.** "Responsible relative" means a person who is a member of the client's household and is a client's spouse or the parent of a minor child who is a client.

[For text of subp 20, see M.R.]

Subp. 21. **Vendor.** "Vendor" means a licensed provider of chemical dependency treatment services that meets the criteria established in Minnesota Statutes, section 254B.05, and that has applied according to part 9505.0195 to participate as a provider in the medical assistance program.

9530.7012 VENDOR AGREEMENTS.

When a local agency enters into an agreement with a vendor of chemical dependency treatment services under parts 9550.0010 to 9550.0092, the agreement must distinguish client per unit room and board costs from per unit rehabilitation services costs.

For purposes of this part, "rehabilitation services costs" are costs, including related administrative costs, of services that meet the criteria in items A to C:

A. The services are provided within a category II, III, or IV rehabilitation program as those categories are defined in part 9530.4100, subpart 22.

B. The services meet the definition of rehabilitation services in part 9530.4100, subpart 23.

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C. The services meet the applicable service standards for categories II, III, and IV rehabilitation programs specified in parts 9530.4320, 9530.4330, 9530.4380, 9530.4390, and 9530.4400.

This part does not apply when a county contracts for chemical dependency services in an acute care inpatient hospital licensed by the Department of Health under chapter 4640.

9530.7015 CLIENT ELIGIBILITY UNDER THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.

[For text of subpart 1, see M.R.]

Subp. 2. **Client eligibility to have treatment initially paid for from the Consolidated Chemical Dependency Treatment Fund.** Except as provided under subpart 4, item D, a client who has an income between 60 and 115 percent of the state median income, as determined by the local agency under part 9530.7020, subpart 1, and who does not have an available third-party payment source, shall be eligible to have treatment paid for with Consolidated Chemical Dependency Treatment Funds, as follows:

A. ~~The client~~ Except when item B applies, all clients or responsible ~~relative~~ relatives shall be billed ~~in accordance with~~ according to the sliding fee scale established under part ~~9530.7020, subpart 3~~ 9530.7022, if the client's total obligation under the sliding fee scale is less than the total cost of the client's chemical dependency treatment.

B. If a client who has no responsible relatives and who is not the custodial parent of a minor child is placed in a category III or IV program, the client shall be billed under part ~~9530.7020, subpart 4~~ 9530.7024, if the client's countable income is less than the sum of the negotiated rate plus the clothing and personal needs allowance and the earned income disregard allowed under Minnesota Statutes, section 256D.06, subdivisions 1 and 1b.

[For text of subps 3 and 4, see M.R.]

9530.7020 COUNTY RESPONSIBILITY TO DETERMINE CLIENT ELIGIBILITY

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FOR CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUNDS AND CLIENT'S ABILITY TO PAY FOR TREATMENT.

Subpart 1. **Local agency duty to determine client eligibility and ability to pay.** The local agency shall determine a client's eligibility for consolidated chemical dependency treatment funds and the client's or a responsible relative's ability to pay a fee at the time the client seeks treatment and is assessed under parts 9530.6600 to 9530.6655. Client eligibility and the ability to pay a fee must be determined using forms prescribed by the department. To determine a client's eligibility, the local agency must determine the client's income, the size of the client's household, the availability of a third party payment source, and a responsible relative's ability to pay for the client's chemical dependency treatment, as specified in items A to E:

[For text of item A, see M.R.]

B. The local agency must determine the client's household size according to subitems (1), (2), and (3).

(1) If the client is a minor child, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's birth or adoptive parents; and

(c) the client's siblings who are minors.

(2) If the client is an adult, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's spouse;

(c) the client's minor children; and

(d) the client's spouse's minor children.

(3) For purposes of this item, household size includes a person listed in subitems (1) and (2) who is in out-of-home placement if a person listed in subitem (1) or (2) is contributing to the cost of care of the person in out-of-home placement.

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C. The local agency must determine the availability of a third party payment source, including the availability of total payment, partial payment, amount of copayment, and any special conditions or procedures the third party payor requires clients and policyholders to follow.

(1) The local agency shall require the client and policyholder to:

(a) follow all special conditions or procedures established by the third party payment source, including the third party payment source's appeal and grievance procedure; and ~~shall require the client and policyholder to~~

(b) assign to the department his or her rights and the rights of minor children to benefits or services provided to the client.

(2) The local agency shall require the policyholder to provide verification of the client's third party payment source's approval or refusal to pay for chemical dependency treatment services before the local agency places the client.

(a) Approvals or refusals can be obtained verbally (for example, by phone) or in writing.

(b) When the policyholder reports a refusal that was obtained verbally, the local agency must confirm the refusal by speaking with a representative of the third party payor.

(c) The local agency must record in the client's case file the representative's name, the date and time of the conversation, the reason given for the decision not to fund, and the steps that will be taken to appeal or grieve the payor's decision not to fund.

(3) If the client or policyholder is unable to provide verification of the third party payment source's approval or refusal, the local agency must assist the client and policyholder to obtain the verification.

(4) If the client or policyholder, with the assistance of the local agency, is still unable to obtain

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verification from the third party payment source, the local agency shall place the client.

[For text of item D, see M.R.]

E. The local agency shall apply the information on the client's and responsible relative's income and household size to the sliding fee scale established in ~~subpart 3b~~ part 9530.7022, and determine the fee for which the client or responsible relative is liable. The local agency shall record this information on a form supplied by the department, and send the form to the department.

Subp. 1a. **Redetermination of client eligibility and ability to pay a fee.** The local agency shall reassess a client's eligibility, redetermine the client's and responsible relative's ability to pay for chemical dependency treatment services, and redetermine the client's and responsible relative's fee as specified in items A to E. For purposes of this subpart, placement of a client into more than one chemical dependency treatment program in less than ten working days, or placement of a client into a chemical dependency treatment program that is structured to provide rehabilitation services followed by outpatient chemical dependency treatment services shall be treated as a single placement.

A. Except for a client whose fee is determined under part 9530.7024, the local agency shall redetermine a client's eligibility for consolidated chemical dependency treatment funds and the client's and responsible relative's ability and obligation to pay a fee for treatment services every six months after the initial eligibility determination if the client remains in the same placement.

B. The local agency shall reassess a client's eligibility, redetermine the client's and responsible relative's ability to pay for chemical dependency treatment services, and redetermine the client's and responsible relative's fee each time a client is placed for chemical dependency treatment services. The fee for a second or subsequent placement shall be added to any unpaid fee obligation of the client or responsible

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relative. Payments for a second or subsequent placement shall begin in the month following the last monthly billing from the previous fee obligation.

C. When two or more clients, for whom another client or responsible relative is financially responsible, are placed for chemical dependency treatment services, the local agency shall add the total fee obligation for the second or subsequent client to the unpaid fee obligation of the client or responsible relative. The payments for the second or subsequent client shall begin in the month following the last monthly billing from the previous fee obligation.

D. If a client who has no responsible relatives and who is not the custodial parent of a minor child is placed in a category III or IV rehabilitation program licensed under parts 9530.4100 to 9530.4450, the client's obligation to make fee payments for a previous placement shall be suspended and the client's fee obligation while in the program shall be determined by the ~~local agency~~ vendor according to part 9530.7024. The client's obligation to make payments on the fee obligation for a previous placement shall resume 30 days after the client is discharged from the program.

E. If a client who has a responsible relative or who is the custodial parent of a minor child is placed in a category III or IV rehabilitation program licensed under parts 9530.4100 to 9530.4450, the local agency shall reassess the client's and responsible relative's ability to pay for chemical dependency treatment services and redetermine the client's and responsible relative's fee obligation. The client and the responsible relative must continue to make monthly payments according to item B.

Subp. 2. **Client, responsible relative, and policyholder obligation to cooperate.** A client, responsible relative, and policyholder shall provide income or wage verification, household size verification, information on any special procedures required by the client's or policyholder's third party payment source, and shall make an assignment of third

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party payment rights under subpart 1, item C. If a client, responsible relative, or policyholder does not comply with the provisions of this subpart, the client shall be deemed to be ineligible to have Consolidated Chemical Dependency Treatment Funds pay for his or her chemical dependency treatment, and the client and responsible relative shall be obligated to pay for the full cost of chemical dependency treatment services provided to the client.

Subp. 3. and 4. [See Repealer.]

9530.7022 PAYMENTS BY A CLIENT OR RESPONSIBLE RELATIVE; FEE SCHEDULE.

Subpart 1. **Payments by a client or responsible relative.** The fee to be paid by a client or responsible relative for chemical dependency treatment shall be determined according to this subpart and the fee schedule specified in subpart 2, and shall be redetermined according to part 9530.7020, subpart 1a.

A. A client or responsible relative whose household income falls between zero and 60 percent of the annual state median income, as defined in subpart 2, shall pay no fee.

B. A client or responsible relative whose household income falls between 60 and 115 percent of the annual state median income, as defined in subpart 2, must pay a fee to the department toward the cost of the client's chemical dependency treatment. The total amount a client or responsible relative is obligated to pay shall not exceed the total cost of the client's chemical dependency treatment services for a treatment placement, including room and board costs.

C. A client or responsible relative whose household income is at or above 115 percent of the annual state median income is not eligible for consolidated chemical dependency fund subsidy of treatment costs, and is obligated to pay for the full cost of treatment.

Subp. 2. **Fee schedule.** The department shall develop a fee schedule and adjust it annually based on the most recent annual state median income for a four-person family published in the

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Federal Register by the United States Department of Health and Human Services for the current federal fiscal year.

The department shall publish the adjustments annually in the State Register on the last Monday in June.

The fee schedule shall have annual and monthly income matrixes based on household sizes ranging from one to ten persons. The annual and monthly income matrixes must begin at 60 percent of the current annual state median income and end at 115 percent of the current annual state median income.

The fee schedule shall be divided into equal steps for each $900 increase in income between 60 percent and 115 percent of the current annual state median income. The fee is $60 for the first step above 60 percent of the state median income for each household size matrix. The fee for each subsequent income step can be calculated by totalling items A, B, and C and multiplying the total by 104 percent to adjust for inflation:

A. the amount of the fee for the previous step;

B. $30; and

C. 12 times the number of steps that precede the step for which the fee is being calculated.

Copies of the current fee schedule may be obtained by contacting the Minnesota Department of Human Services, Chemical Dependency Program Division, 444 Lafayette Road, Saint Paul, MN 55155-3823.

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

When a client who has no responsible relatives and who is not the custodial parent of a minor child is placed in a category III or IV program licensed under parts 9530.4100 to 9530.4450, the ~~local agency~~ vendor shall determine the client's countable income in accordance with parts 9500.1200 to 9500.1318.

A. The ~~local agency~~ vendor shall subtract the amount established as the clothing and personal needs allowance for medical assistance recipients under Minnesota Statutes, section 256B.35, subdivision 1, and the amount established as an additional earned income disregard under Minnesota Statutes,

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by Revisor _____

section 256D.06, subdivision 1b, from the client's countable income, whether the client's income is earned or unearned.

B. If the client is regularly contributing to the financial support of the client's natural or adopted minor child or children, the ~~local agency~~ vendor shall verify the support payment and subtract the amount specified in a court order, if one exists. If no court order exists, the ~~local agency~~ vendor shall determine the number of dependent children the client supports and subtract the amount paid, up to the amount specified for that number of children in the standards for aid to families with dependent children established in part 9500.2440, subpart 6. The ~~local agency~~ vendor shall verify child support payments made through a bank statement, a canceled check, a receipt, or through the public agency responsible for child support enforcement. The method of verification must be recorded in the client's case record.

C. The ~~local agency shall subtract the amount of income that remains from the negotiated rate for board and lodging expenses for the category III or IV program to determine how much of the negotiated rate shall be paid for with funds from the Consolidated Chemical Dependency Treatment Fund~~ client's fee shall equal whichever is less: the amount of income that remains after the deductions in items A and B are subtracted or the amount of the negotiated rate.

D. The ~~local agency~~ vendor shall record this information on a form supplied by the department, and send the form to the ~~department. The department shall bill the client monthly, according to the information supplied by the~~ local agency. The local agency shall verify the accuracy of the information and send the form to the department. The client shall be billed and the client's fee collected according to part 9530.7031 [Emergency].

E. The ~~local agency~~ vendor shall make a monthly redetermination of the countable income of a client in a category III or IV program, and the amount the client owes toward the negotiated rate according to this part.

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F. The client may make expenditures from income subtracted according to Minnesota Statutes, section 256D.06, subdivision 1b, on approval of the local agency.

REPEALER. Minnesota Rules, part 9530.7020, subparts 3 and 4 are repealed.

Approved
by Revisor _____

APPROVED AS TO LEGALITY

December 12, 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene M. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 13 1990

Joan Anderson Growe
Secretary of State

3:57 P.M.

m

254B.03 subd 5

The commissioner shall adopt rules as necessary to implement Laws 1986, chapter 394, sections 8 to 20. The commissioner shall ensure that the rules are effective on July 1, 1987.

end of comment period stated in Notice of Intent
May 23, 1990

May 7, 1990 Notice of Intent stated that the original rule was published on April 23 with the end of the comment period is May 23, 1990.
(May 7, 1990) his extended the comment period to June 7, 1990.

What happened to 9530.6600 - Findings of Fact
Findings of Fact = 3 of those that withdrew called in even if we threw those out it is still under 25. Also the rule doesn't say the withdrawns must be in writing

30 deadline
original notice = April 23 - May 23 = 30 days I don't know why they republished since the orignid notice had 30 days

180 deadline
14.26 end of comment period June 7, 1990
- Nov 30, = 176 days O.K.

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: Alice Weck, Rules Division

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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

Official documents in this submitted material include:

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

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

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

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

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

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

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

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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.

There were 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 296-0626.

B.C.F.S.C.

MAY 17 1990

DL

We, The undersigned are submitting a request for a public hearing on the proposed amendments to Minnesota Rules Parts 9530.6655, 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022 and 9530.7024. We request that the Department of Human Services proceed pursuant to Minnesota Statutes, section 14.13 to 14.20 regarding public hearings. Of particular concern is the lack of parameters regarding accessing third party payment in lieu of using CCDTF. We desire to fully utilize private insurance before accessing the CCDTF in order to most positively impact the use of the fund.

RECEIVED MAY 1990 RULES UNIT

	Name	Address	
1.	Dave Ryndas	320 E Ninth St.	Fairmont, MN
✓ 2.	Shirley Hemingway	1515 S. Valley	New Ulm, MN
✓ 3.	Ken Hicks	Rt 4 Box 151A	Sleepy Eye Mn. 5600
4.	Curt Murphy	RR#1, Box 189	Winnebago, MN 5609
✓ 5.	David Lenarz	114 No State St.	New Ulm, MN 5607
✓ 6.	Julie Heig	1024 7th Ave	WORTHINGTON, MN 5618
7	Cynthia Rogers	300 So. 7th STREET	OLIVIA, MN 56277
8	Robert Foster	PO Box 31	ST. JAMES MN 56081
✓ 9	Ellen Kelley	216 15th ST	Worthington, MN 56187
10	Lobie Smith	506 So. Park	Fairmont, MN 5603
11	Deb Adams	947 So. Orient	Fairmont, MN 5603
12	Annette Brewer	Rt. 1 Box 219A	Truman, Mn. 56088
13.	Julie Bock	RR2 Box 135A	Blue Earth, MN. 56013

Petition for public hearing on the proposed amendments to Minnesota Rules Parts 9530.6655, 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022 and 9530.7024.

	Name	Address	
14	Allan M Anderson	402 W. 4 St	Welcome, MN 56181
15	Shirley Howard	Rt. 1 Box 126	Granada, MN 56039
16.	Carlton Franke	Rt. 1 Box 4A	Walters, MN
17.	Loretta Bach	Rt 1 Box 219	Mapleton, MN 56065
18.	Michael Fessel	Rt. 1 Box 202B	Blue Earth, Mn. 56013
✓ 19.	Dick Embacher	114 N. State	New Ulm, Mn. 56073
20	Christine Olson	114 N. State	New Ulm Mn 56073
✓ 21	Howard Schneider	1324 5th North	New Ulm Mn. 56073
22.	Lu Ann Macho	Rt 3 - Box 164	St. James, Mn 56081
23.	Kay Witt	915 N. Franklin	New Ulm Mn 56073
24	John Vera	1407 - South 5th St	New Ulm, Mn. 56073
25	Mary Graham	1713 Mary Lane	North Mankato, MN 56001

MAY 1990
RULES UNIT



MAY 7, 1990

RECEIVED
90 MAY 11 AM 8:55
ADMINISTRATIVE HEARINGS

THE UNDERSIGNED INDIVIDUALS, HEREBY PETITION THE DEPARTMENT OF HUMAN SERVICES, TO HOLD A PUBLIC HEARING ON PROPOSED CHANGES TO MINNESOTA RULES 9530.6600 TO 9530.6655. SUCH HEARING TO BE HELD PRIOR TO THE IMPLEMENTATION OF ANY CHANGES AND PRIOR TO THE ESTABLISHMENT OF ANY EMERGENCY RULES PERTAINING TO THE ASSESSMENT AND PLACEMENT OF CHEMICALLY DEPENDENT INDIVIDUALS.

NAME	ADDRESS
[illegible]	St. Paul MN
John Westerdahl	Edina, MN
[illegible]	NEW PRAGUE MN 56071
Lance Gingsby	4209 2nd ave So. Mpls
Bill Wagner	681 Ely Fridley MN
Robin Olson	Anoka, MN
Sharon Unger	4323 Chanel Ave So Mpls
Fred Dighton	1315 Olson Mem. Hwy
Jerry Petersen	7444 Bryant Ave So. Richfield MN
Takashi Yoshino	17201 Grays Bay Blvd Wazayta, MN.
[illegible]	2880 [illegible] Ave So #4 Mpls MN
[illegible]	Robbinsdale MN.
[illegible]	4248 Oakmede W.B.L
Alfred Houstrom	7244 Portland, Ave Richfield 55423
[illegible]	13629 Glendale Savage, MN
Karen Stanley	14109 Elgin Ct Apple Valley MN
Dick Wasmuth	4923 Sheridan Ave S. Mpls. MN 5541
[illegible]	6607 Drew Ave. N Brooklyn Center [illegible]
Mike Kirkeberg	3635 Vincent No. Mpls. 55412
Mark H. Sutherland	542 Lincoln Ave #305 St. Paul, Minn [illegible]
Susan Wilkstrom	7209 Chicago Richfield 55423
Jodi Benson	2724 Oakland Ave So 55[illegible]

MAY 7, 1990

THE UNDERSIGNED INDIVIDUALS, HEREBY PETITION THE DEPARTMENT OF HUMAN SERVICES, TO HOLD A PUBLIC HEARING ON PROPOSED CHANGES TO MINNESOTA RULES 9530.6600 TO 9530.6655. SUCH HEARING TO BE HELD PRIOR TO THE IMPLEMENTATION OF ANY CHANGES AND PRIOR TO THE ESTABLISHMENT OF ANY EMERGENCY RULES PERTAINING TO THE ASSESSMENT AND PLACEMENT OF CHEMICALLY DEPENDENT INDIVIDUALS.

NAME	ADDRESS
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Nancy Bishop, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list which is accurate, complete, and current as of this 18th day of April, 1990.

That on the 18th day of April, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Nancy L. Bishop

Subscribed and sworn to before me
this 18 day of April, 1990.

Claudia G. Eliason

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

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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 amendments 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 amendments is Minnesota Statutes, section 254B.03, subdivision 5 which authorizes the commissioner (1) to adopt rules as necessary to implement Laws of 1986, chapter 394, sections 8 to 20; and (2) to establish an appeals process for use by recipients when services certified by the county are disputed.

All persons have 30 days or until 4:30 p.m. on May 23, 1990 in which to submit comment in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment 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: Alice Weck, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-0626.

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.

disregard for clients with unearned income, and an allowance for single parents to support dependent children.

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

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

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

Adoption of these rules as amended will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule amendments is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

If no hearing is required, upon adoption of the rules as amended, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Date: Aug. 5, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 18th day of April, 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
- The 10 Regional Treatment Centers
- Providers of chemical dependency treatment services in Minnesota
- Representatives of counties or treatment facilities who requested to receive a copy of the proposed rule

Nancy L. Bishop

Subscribed and sworn to before me
this 18 day of April, 1990
Claudia G. Elias

CLAUDIA [illegible]
NOTARY PU[illegible]
WASHINGT[illegible] COUNTY
MY COMMISSION EXPIRES [illegible] 15, 1990

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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Date: Aug. 5, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Nancy Bishop, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list which is accurate, complete, and current as of this 2nd day of May, 1990.

That on the 2nd day of May, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Nancy L. Bishop

Subscribed and sworn to before me
this 2 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.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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Nancy L. Bishop

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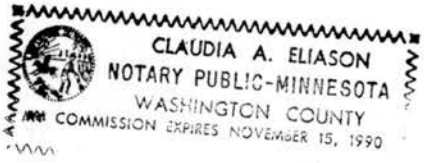
this 2 day of May, 1990
Claudia G. Eliason



Department of Human Services

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

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DATE 6-29 19 90

REDI-NOTE

TO Lee Kartner

SUBJECT Petition - Rules Hearing

Lee as we discussed the following signatures reflect a desire to have our names withdrawn from the petition regarding Rule 9530 -

Dave Lenarz ✓ CADC III [S. W.

Dick Embacher ✓

Shirley Hemingway ✓

SIGNED

REDIFORM 4S462
POLY PAK (50 SETS) 4P462
carbonless

[X] NO REPLY NECESSARY

[ ] REPLY REQUESTED - USE REVERSE SIDE

the five years immediately preceding the appointment, employed by a Minnesota public school district or a Minnesota public school district consortium that is authorized by *Minnesota Statutes* and who is licensed in communication disorders by the Minnesota Board of Teaching.

(4) Two audiologists registered under parts 4750.0010 to 4750.0700, one of whom is currently and has been, for the five years immediately preceding the appointment, engaged in the practice of audiology in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, industry, and government agencies.

Subp. 2. **Organization.** The advisory council shall be organized and administered under *Minnesota Statutes*, section 15.059.

Subp. 3. **Duties.** The advisory council shall:

A. advise the commissioner regarding speech-language pathologist and audiologist registration standards;

B. advise the commissioner on enforcement of parts 4750.0010 to 4750.0700;

C. provide for distribution of information regarding speech-language pathologist and audiologist registration standards;

D. review applications and make recommendations to the commissioner on granting or denying registration or registration renewal;

E. review reports of investigations relating to individuals and make recommendations to the commissioner as to whether registration should be denied or disciplinary action taken against the individual;

F. advise the commissioner regarding approval of continuing education sponsors using the criteria in part 4750.0400, subpart 3; and

G. perform other duties authorized for advisory councils by *Minnesota Statutes*, chapter 214, or as directed by the commissioner.

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

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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.

Department of Human Services

Proposed Permanent Rules Relating to State Financial Participation in County Welfare Administration Cost

Notice of Intent to Repeal a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to repeal the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for repealing rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority for the adoption of the rule was *Minnesota Statutes*, section 256D.22. The authority for the repeal of the rule is *Laws of Minnesota*, chapter 719, article 8, section 33.

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.

Laws of 1988, Chapter 707, sec. 2 appears to have waive *one* type of limitation on spending and to continue the application of the other limitations present in *Minnesota Statutes* § 10A.32. The provisions of *Minnesota Statutes* § 10A.32, subd. 3, regarding conditions that may require return of public financing, were before the Legislature in sec. 4 of the cited 1988 law. If the Legislature intended to place other restrictions or waive other limits, the Legislature could have done this when amending *Minnesota Statutes* § 10A.32.

For Discussion: For the purpose of calculating the possible need to return public financing under Sec. 10A.32, subd. 3, the "amount that may be legally expended" is the amount in Sec. 10A.25, as calculated under Sec. 10A.255. To consider the waiver of one condition and the continuance of the other conditions separately is not unreasonable in light of the constitutional requirement for campaign spending limits, cited above.

Staff has reviewd this matter with counsel, who concurred with the interpretation noted above and advised staff to bring the question to the Board for consideration.

Department of Human Services

Chemical Dependency Division

Notice of Solicitation of Outside Information or Opinions Regarding Amendments to Adopted Rules Governing Chemical Dependency Care for Public Assistance Recipients

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 an amendment to the adopted rule governing chemical dependency care for public assistance recipients (Rule 25), *Minnesota Rules*, parts 9530.6600 to 9530.6655.

Authority for this rule is contained in *Minnesota Statutes*, Chapter 254A.03, subdivision 3. This rule establishes criteria to determine the appropriate level or chemical dependency care, including inpatient and outpatient treatment, extended care, halfway house and primary residential treatment programs for a public assistance recipient seeking treatment for alcohol or other drug dependency or drug abuse problems. The amendment being considered is to part 9530.6655, and would provide a mechanism for appeal of a client's length of placement authorized by the local agency.

The State Department of Human Services requests information and opinions concerning the subject matter of the 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: Lee Gartner, Chemical Dependency Division, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3823. Oral statements will be received during regular business hours over the telephone at 296-8574 and in person at the above address.

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

Dated: 13 October 1988

Jane A. Nelson
DHS Rules and Bulletins Division

Minnesota Comprehensive Health Association

Notice of Meeting of the Legislative and Public Policy Committee

NOTICE IS HEREBY GIVEN that a meeting of the Legislative and Public Policy Committee of the Minnesota Comprehensive Health Association will be held at 2:00 p.m. on Monday, October 31, 1988, at Group Health, Inc., 2829 University Avenue Southeast, Minneapolis, in the sixth floor large conference room. For additional information, please call Mr. Brian Osberg at (612) 623-8464.

MinnHealth P.A.
Family Centered Health Care Network

WHITE BEAR OFFICE
3220 Bellaire Ave.
White Bear Lake, MN 55110
612/777-8149

May 1, 1990

Alice Weck
Dept. of Human Services
4404 LaFayette Road
St. Paul, MN 55155-3816

Dear Ms. Weck:

I would like to urge a public hearing on the Department of Human Services rule relating to implementation and consolidated chemical dependency funding.

This funding has allowed people in economic distress to get adequate chemical dependency treatment and I think it would be a serious step backwards if this was abandoned or severely restricted.

Sincerely,

Thomas G. Briggs, M.D.
Medical Director - St. Joseph's Hospital, Chemical Dependency Treatment Center - St. Paul, MN 55102

TB/ak

cc: Randy Forsman
St. Joseph's Center



OTHER OFFICES

AFTON ROAD OFFICE 612/739-5050
LAKE ELMO OFFICE 612/777-1875
SCENIC HILLS OFFICE 612/738-8834
MAPLEWOOD OFFICE 612/777-8393
DOWNTOWN WHITE BEAR OFFICE 612/426-6402

May 9, 1990

Ms. Alice Wick
Department of Human Services
444 Lafayette Road
St. Paul, MN. 55155-3816

Ms. Wick:

This letter is being written to request a public hearing in the matter of:

Proposed Amendments to Department of Human Services Rule Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund. (MN. Rules, Part 9530.6655 and parts: 9530.8000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

By cutting inpatient services 25% to people suffering from an illness is in fact saying that the Department of Human Services is willing to accept responsibility for the lives of 25 out of 100 people who are out there dying!...while this issue is being discussed and their fate is hanging because of the dollar!

People who are in need of help deserve to be offerred inpatient treatment if that best fills their needs. Professionals in the area of chemical dependency should be utilized to determine the patients needs and recommend services to deal with their illness.

I would also strongly recommend that you lay off the people who are trying to keep sick people away from the treatment that they need and are entitled too. By writing absurd proposals such as the one you are trying to force down our throats...there are people out there who can't get help.

Public hearings are necessary! Don't you think it's about time to hear what Professionals in the field have to say on this matter and how your proposal affects those that are suffering from this illness.

Sincerely;

David J. Agar

David J. Agar
Chemical Dependency Counselor
635 E. Beech
Fergus Falls, MN. 56537



cc: Representative Bob Anderson
Senator Cal Larson
Senator Don Moe
Senator Samuelson
Representative Vanassek
President/Council 6, Pete Benner
Elliot Seide
Rick Scott
Tom Beer
Dave Brunelle, Director of DDRC/FFRTC

Postmarked JUN 1

HENNEPIN

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

May 30, 1990

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

IN THE MATTER OF THE PROPOSED AMENDMENTS TO DEPARTMENT OF HUMAN SERVICES RULES RELATING TO IMPLEMENTATION OF THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND (MINNESOTA RULES, PART 9530.6655 and PARTS 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

Dear Ms. Weck:

Attached are some specific comments relating to various subparts of the proposed permanent rules relating to implementation of the Consolidated Chemical Dependency Treatment Fund. I would also strongly encourage that you have a full public hearing in that many of the issues deserve open comment and testimony.

DEPARTMENT OF HUMAN SERVICES PROPOSED PERMANENT RULES RELATING TO IMPLEMENTATION OF THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.

9530.6655 APPEALS

Subp. 1. Client's right to a second assessment.
The final paragraph, lines 28-35, seems to imply that clients who are enrolled in a prepaid health plan do not have the right to appeal length of placement, as they are specifically excluded from appeal rights under Subp. 2, which is the subpart that adds length of placement as an appealable issue. Subpart 3, lines 8-13, supports this interpretation, as it lays the groundwork for mandatory service continuation when "... the county proposes to terminate a placement ... regardless of provisions of the host county contract."

If the interpretation is accurate, we strongly oppose the implied two-track appeal process. It would leave prepaid health plan enrollees at the mercy of their health plan, while guaranteeing non-enrollees specific amounts of additional service as prescribed. This would appear to be discrimatory solely on the basis of an individual's funding source. Hennepin County would be particularly concerned, in that 100% of our AFDC recipients will be enrolled in managed health care plans by July 1, 1990. Because of the conservative tendency of prepaid health plans in authorizing treatment, it is possible that some of the most vulnerable clients, primarily women and adolescents, will be at the highest risk for not receiving needed care. If there is to be prescribed continuation of services, we strongly urge that it be consistent between these two client groups.

Supb. 3. Length of placement appeal, service continuation.
We have grave reservations about the excessive amounts of service that the counties must continue to provide, particularly as the appeal can be filed up to the day before the county-authorized end date. To base these amounts on the average length of stay for each level of care (as per the "Statement of Need and Reasonableness") is to nearly double the "usual and customary" length of service for primary outpatient and residential rehabilitation. This costly potential seems neither reasonable nor necessary and is at cross-purposes with the cost-containment intent of both this rule and the proposed emergency rule. Similar arguments exist for the continuation of extended care and halfway house services which normally are authorized for 6 months and 90 days respectively.

We urge extreme caution in relying on the related fiscal note which projects only one appeal statewide for each level of care. Perhaps the greatest risk lies with adolescent services which necessarily carry higher costs. When a treatment provider tells a juvenile and/or the court that he or she is not ready to leave, the parent(s) are unlikely to object, and the juvenile can be persuaded to appeal.

We strongly suggest that the prescribed amount of service for each level of care be reduced to no more than one-fourth of the amounts proposed. Whether or not this recommendation is considered, we would also suggest the development of a separate and swift appeal process for clients who are subject to this rule.

Lastly, if the appeal process is to follow Minnesota Statutes, section 256.045, then the omission of this citation from subpart 3. would appear to be an oversight. As drafted, subpart 3 mandates service continuation " ... until the client is discharged by the vendor or according to items A to D whichever occurs first." There is no mention of the possibility that a fair hearing, and a decision from the commissioner might occur first. If, in fact, this process could never occur first, then any reference to the appeals statute itself is questionable.

Subp. 4. Length of placement appeal criteria.
As drafted, these criteria appear vague and somewhat ambiguous. Items B. and C. in particular could each be interpreted in more than one way. In the attendant "Statement of Need and Reasonableness," however, the meanings and intent of the criteria are very well described. We would recommend that these clarifying explanations be incorporated into the language of this subpart.

9530.7000 DEFINITIONS

Subp. 13 Income.
We strongly support the addition of court-ordered child support and health insurance premium payments as exclusions from the definition of income.

Subp. 19. Responsible relative.
We strongly support the expanded definition which releases from liability a spouse or parent who is not/no longer a member of a client's household.

9530.7015 CLIENT ELIGIBILITY UNDER THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.

Subp. 2. B.
We strongly support the modification to exclude custodial parents of minor children from the separate fee determination process which applies to clients of halfway houses and, as proposed, to extended care clients.

As drafted, the applicable clients " ... shall be billed under part 9530.7020, subpart 4, ..." However, the REPEALER provision, p. 12., repeals Minnesota Rules, part 9530.7020, subparts 3 and 4.

9530.7020 COUNTY RESPONSIBILITY TO DETERMINE CLIENT ELIGIBILITY FOR CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND AND CLIENT'S ABILITY TO PAY FOR TREATMENT.

Subp. 1. B.
We strongly support the proposed definition of "household" and the modification to base fees on "household" rather than "family" size.

Subp. 1a. A.
We have no objection to redetermination of fees every six months for clients who remain in the same placement. We recognize that this modification specifically addresses the Methadone Program and have already implemented semi-annual redeterminations for applicable clients.

9530.7022 PAYMENTS BY A CLIENT OR RESPONSIBLE RELATIVE; FEE SCHEDULE.

We wish to acknowledge that this rule part, which describes the fee schedule and the categories of financial eligibility, will be moot if the superseding legislation to take effect July 1, 1991, is not repealed. We therefore request representation on any group which the Department might establish to address this issue.

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

This part was apparently drafted prior to the published draft of the related emergency rule. If vendors are to collect and remit client fees to the Department, as proposed by the draft emergency rule, then this part must be revised accordingly. The vendor, rather then the local agency, must take responsibility for determining, verifying and documenting the client's countable income and calculating the resulting fee on a monthly basis. Accordingly, the vendor, rather then the Department, must bill the client.

It is possible that we do not have an accurate interpretation of this rule part. Due particularly to subpart C., it is not clear whether a client could be liable for up to the total cost of care, for only the cost of board and lodging, or for each under two separate fee determination mechanisms. In addition to consistency between the two rules, we strongly request clarification of this part in language that will facilitate comprehension and compliance by all parties responsible for implementation.

Sincerely,

Robert T. Olander,
Director, Chemical Health Division

cc: Jan 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, Program Analyst Supervisor, Hennepin County

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

Sioux Valley Hospital

May 24, 1990

Alice Weck
Minn. Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

RE: Proposed Permanent Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund-Revisor Dated 4-3-90

Dear Ms. Weck:

This letter contains my written comments in reference to the proposed revisions of Rules 24 and 25. I will be making reference to the Revisor dated 4-3-90.

Section 9530.6655, Subpart 1, identifies the need for a county to provide a second chemical use assessment by a different qualified assessor within five working days of receipt of a request for reassessment. The rule fails to specify whether this reassessment can be completed by a different assessor working for the same agency, or, whether assessment data can or should be shared between the two assessors. I question whether a client will receive a "fair" reassessment if this is to be done with an assessor working in the same agency. I would recommend that the rule require that the reassessment not be done by someone in the same agency. In order to ensure that the assessors are basing their recommendations on the same objective data, I would also recommend that the rule require the client to authorize the exchange of data between the two assessors.

Section 9530.6655, Subpart 3 establishes the periods of time that a client is entitled to continued treatment beyond the authorized date, pending an appeal, for each level of care. I believe these authorized periods are excessive, or have the potential to be excessive. Following are my recommendations for changing these limits:

Level of Care	Revisor, 4-3-90	My Recommendations
Outpatient	52 hours beyond authorized date	60 hours beyond authorized date, with the total length of stay not to exceed 100 hrs.
Inpatient	24 days beyond authorized date	14 days beyond authorized date, with the total length of stay not to exceed 40 days.
Extended Care	55 days beyond authorized date	14 days beyond authorized date with the total length of stay not to exceed 90 days.
Half Way House	54 days beyond authorized date	14 days beyond authorized date with the total length of stay not to exceed 90 days.

Implicit in my recommendations is the need for a timely processing of the appeal, i.e. within two weeks. Failure to ensure this negates any value that the appeal process might have, and instead simply allows for significantly extended treatment stays based on a client's perceived treatment needs, and the agreement by the provider.

Section 9530.7020, Subpart 1C requires a policyholder to provide verification of a client's third party payment source's approval or refusal to pay for chemical dependency treatment services before the local agency places the client. The rule does not define whether verification means written or verbal communications. If the intent is to require written verification, I am very concerned about this delaying treatment admissions for clients who will be at risk during this time. It sometimes takes us, as a provider, 7-10 days to receive written authorization or refusal from an insurance company. I would recommend that the rule clarify this, allowing for verbal communications between the agency and third party payment source, to satisfy the verification requirement.

Lastly, I would like to address a concern regarding what I consider to be a significant omission in this Revisor draft. The concern has to do with clients who have available a third party payment source, but also qualify for Rule 24 funding. Currently in these cases, the provider receives the negotiated Rule 24 payment, and the state in turn bills the third party payor. I can best exemplify my concerns, by giving an example looking at the costs of treatment for a client who is eligible for Rule 24 funding without a fee, and who has insurance which provides 80% coverage for inpatient CD treatment.

28 day inpatient stay

Treatment Costs

5880.	(per diem: 28 days x $210.)
400.	(physician and anciliary charges)
$6280.	

Insurance Reimbursement (Without Rule 24 Funding)

5024.	(80% of $6280.)
1256.	(client co-payment)

Rule 24 Funding (With State Collecting From Insurance)

Provider Reimbursement

3780. (discounted per diem: 28 days x $135.)

State Reimbursement

3024. (80% of $3780.)

Several things are evident from this example. First, the net cost to the state in this case of Rule 24 funding is $756., while it is $0. if insurance pays the provider directly. Secondly, the provider receives $1224. more through insurance reimbursement than through Rule 24 funding, excluding the client's copayment.

Lastly, the client can avoid the additonal paperwork and time, not to mention the possible stigma in their minds, associated with seeking Rule 24 assistance, by having insurance pay the provider directly. In addition, time by county and state staff involved in processing the authorizations and invoices, could be saved.

My recommendation is that the rule allow for a third party payment agreement to be entered into between the agency, client, and provider, which would stipulate that the provider will accept as payment in full the payment from the insurance company. This concept was included in the Revisor date 12-23-88, Section 9530.7020, Subpart 1 C, and read as follows:

> "The local agency, client, and vendor may enter into a third party payment agreement on a form specified by the department that stipulates that the vendor will accept as payment in full the amount of reimbursement from a third party payor and the amount of the client fee determined under subpart 3. The agreement is not effective until an authorized representative of each of the three parties has signed it. The agreement is void only if replaced by a client placement authorization form. The third party payment agreement must be maintained in a record by the local agency."

In the first four months of 1990, Sioux Valley Hospital has admitted four inpatients and two outpatients under Rule 24 funding, who also had other third party payment sources. I believe that by implementing these third party agreements, there could be potentially significant cost savings to the state and counties, as well as improved financial performance for providers.

Thank you for your consideration. Please feel free to contact me if there are questions regarding any of these issues.

Sincerely,

Steve Schneider
Director of Behavioral Health

c.c. Ken Hicks
Diane Rasmussen

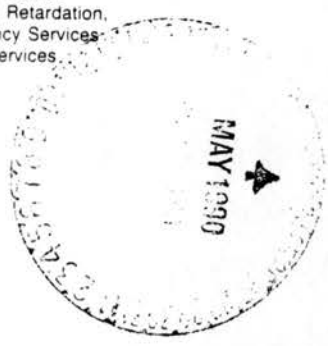
SS:rl

COUNTY OF ANOKA

COMMUNITY HEALTH & SOCIAL SERVICES DEPARTMENT
COURTHOUSE ANOKA, MINNESOTA 55303

612-422-7000
Public Health Nursing Service
Mental Health, Mental Retardation,
Chemical Dependency Services
Family & Children's Services
Volunteer Services

612-422-7092
Environmental Health Services
Licensing - Day Care/Foster Care



May 21, 1990

Alice Weck
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

RE: Proposed Amendments to Rules 24 and 25

Dear Ms. Weck:

Anoka County has examined the proposed amendments to both Rules 24 and 25 and believes that many of the proposed modifications are very commendable and should be instituted. However, we also have some concerns regarding several of the proposed amendments.

The proposed modifications to clarify income, specifically the change of terms from "family" income to "household" income are to be commended. We believe this will help to clarify eligibility and assist in program administration. The addition of "policy holder" to a number of the citations to client and responsible relative are also supported by Anoka County.

Anoka County's primary concern is regarding Minnesota Rule 9530.6655 APPEALS. We believe the lengths of service continuation pending an appeal are excessive. They render the appeals process meaningless since rarely is an appeal hearing held within 24 days. The mandate regarding service continuation puts the client and the service vendor, who has a vested financial incentive, in the position of determining how long the services will be provided and paid for through public funding within very broad limits. The assessor is in practice removed from the decision making process in terms of length of stay except to be part of setting some very broad parameters. The net effect on counties will be to force them to only use the cheapest resources on a unit basis rather than the most cost effective, due to the high risk of a client desiring additional units of service at a relatively high rate. This factor is especially important due to the fact that appeals take a minimum of three weeks to be heard. Appeals are frequently not heard for greater than 30 days after the client has requested a fair hearing. The quality of chemical dependency treatment services for Anoka County residents accessing treatment through the Consolidated Chemical Dependency Treatment Fund will only decrease should this modification be implemented.

A more positive approach to the issue of length of placement would be to require counties to grant extensions to the length of stay upon the request of the client and vendor except under specified conditions. Anoka County believes that it and most counties have successfully worked together with vendors and clients to grant extensions to authorizations when a need exists. Consideration should be given to developing criteria whereby counties can deny a request for an extension rather than mandating excessive service continuation limits.



Anoka County's second objection is to the additional requirements for forms completion. In the proposed Rule modification to 9530.7020 subpart 1. the counties would be required to use "forms prescribed by the Department" to determine client eligibility and the ability to pay. The Department of Human Services has indicated to Anoka County verbally that it is their intent to use a form modeled after the Combined Application Form (CAF) as the form for this process. This is the standard application at the current time for all income maintenance programs consisting of in excess of 30 pages. We believe the requirement to have clients complete such a form places an unreasonable burden on the client and the county. This burden is permitted under the proposed Rule modification.

A second additional documentation requirement in the proposed Rule modifications is in Section 9530.7024 D. Here the agency is required to complete an additional form to list the income and subtractions considered in determining the client fee on a monthly basis. Currently the amount is supplied to the State Department of Human Services on a monthly basis as part of the invoice processing system. This would lay an additional requirement on counties to complete supplementary forms every month. Anoka County believes this is an unnecessary burden on counties.

A final concern of Anoka County's is in Section 9530.7024 B. Anoka County is not so much concerned with the content of this Section as the fact that it is very difficult to understand. We believe that this Section can be rewritten to make it far easier to understand.

In summary, Anoka County finds much in the proposed Rule modifications that we support, however, we have some concerns regarding the service continuation limits during an appeal and the additional documentation requirements required of counties. Thank you very much for the opportunity to provide some input into this Rule revision process. Should you desire any further comments or discussion regarding these matters, you may feel free to contact Craig Sorensen at 422-7053.

Sincerely,

George J. Steiner
Director

GJS/CDS:gd

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

June 26, 1990

Mr. George Steiner, Director
Anoka County Community Health and
Social Services Department
Courthouse
Anoka, MN 55303

Dear Mr. Steiner:

Thank you for your thoughtful comments on the proposed amendments to Rules 24 and 25. They will be considered as the Department prepares the final language of these amendments.

To briefly respond to each area:

9530.6655 APPEALS. This rule part will be going to public hearing, probably in late August. You will receive the notice of hearing in the usual manner.

9530.7020, subpart 1 (the eligibility form). While the Chemical Dependency Program Division did model the eligibility form after the Combined Application Form, all information not germaine to eligibility for the Consolidated Chemical Dependency Treatment Fund. Attached is the current draft of the form. Comments and suggestions from you or your staff would be most welcome. Please contact Carolyn Pollard at 296-4728.

9530.7024D (recording monthly client fees). This item will not appear in the adopted rules. It has been superceded by the emergency amendments.

9530.7024B (allowance for child support). Thanks for the input. We'll see what we can do. Failing that, we will provide training before these changes are implemented.

Thank you both for the support and the suggestions.

Sincerely,

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

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AN EQUAL OPPORTUNITY EMPLOYER

People, Incorporated

Glenn Anderson
Executive Director

DAYTON HOUSE
565 Dayton Avenue
St. Paul, Minnesota 55102
(612) ~~227-6321~~ 222-1009

May 1, 1990

Department of Human Services
Attn: Alice Weck
444 Lafayette Road
St. Paul, MN 55155-3816

Regarding the recent mailing 4-3-90 of proposed revision of Rule 24, Page 11, Line 25 ff.

(under 9530.7024 Client fees for Category III and IV Programs).

Regarding "A. The local agency shall subtract...".

Only the personal needs allowance and the earned income disregard are mentioned.

My concern: The local agency also allows other amounts to be subtracted which are not listed either here or in the Old Rule 24 namely: 150.00 Savings per month; Lunch costs; Transportation costs; and certain other work related expenses that are verified with receipts.

Should not these subtractions also be listed in the revision, presumably under "A" mentioned above? Thank you.

Sincerely,

Carl J Becherer

Carl J. Becherer, Program Director
565 Dayton Avenue
St. Paul, MN 55102

Equal Opportunity Employer

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Adoption of
Department of Human Services Rules
Relating to Implementation of the
Consolidated Chemical Dependency
Treatment Fund (Minnesota Rules,
parts 9530.7000, 9530.7012, 9530.
7015, 9530.7020, 9530.7022, and
9530.7024)

DECLARATION OF COUNSEL

I, William Mondale, 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 0811 .

William D. Mondale
Special Assistant Attorney General

Dated:

Department of Human Services

Chemical Dependency Division

Notice of Solicitation of Outside Information or Opinions Regarding Amendments to Adopted Rules Governing the Consolidated Chemical Dependency Treatment Fund

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the adopted rule governing the consolidated chemical dependency treatment fund, *Minnesota Rules*, parts 9530.7000 to 9530.7030. The adoption of the rules in this area is authorized by *Minnesota Statutes*, section 254B.03, subdivision 5, which permits the agency to adopt rules as necessary to implement *Laws 1986*, chapter 394, sections 8 to 20.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Lee Gartner, Chemical Dependency Division, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3823. Oral statements will be received during regular business hours over the telephone at 296-8574 and in person at the above address.

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

Dated: 26 July 1988

Jane A. Nelson
Rules and Bulletins Division

Minnesota Job Skills Partnership

Notice of Special Meeting

The Minnesota Job Skills Partnership Board will hold a special meeting:

Monday, August 29, 1988
1:00 P.M.
Room 300 North State Office Building
St. Paul, MN

The purpose of the meeting is to hear appeals filed as the result of Partnership Board action at their June and July meetings.

Department of Labor and Industry

Notice of Certified Prevailing Wage Rates

On August 1, 1988 the commissioner will certify prevailing wage rates for commercial construction projects in the following Minnesota counties: AITKIN, BECKER, BELTRAMI, CARLTON, CASS, CLAY, CLEARWATER, COOK, CROW WING, HUBBARD, ITASCA, KITTSON, KOOCHICHING, LAKE, LAKE OF WOODS, MAHNOMEN, MARSHALL, NORMAN, OTTERTAIL, PENNINGTON, POLK, REDLAKE, ROSEAU, ST. LOUIS, WADENA, WILKIN.

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are $.50 for the first county and $.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is $25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Ray Bohn, Commissioner
Department of Labor and Industry

Postmarked June 5

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

May 30, 1990

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

IN THE MATTER OF THE PROPOSED AMENDMENTS TO DEPARTMENT OF HUMAN SERVICES RULES RELATING TO IMPLEMENTATION OF THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND (MINNESOTA RULES, PART 9530.6655 and PARTS 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

Dear Ms. Weck:

Attached are some specific comments relating to various subparts of the proposed permanent rules relating to implementation of the Consolidated Chemical Dependency Treatment Fund. I would also strongly encourage that you have a full public hearing in that many of the issues deserve open comment and testimony.

DEPARTMENT OF HUMAN SERVICES PROPOSED PERMANENT RULES RELATING TO IMPLEMENTATION OF THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.

9530.6655 APPEALS

Subp. 1. Client's right to a second assessment.
The final paragraph, lines 28-35, seems to imply that clients who are enrolled in a prepaid health plan do not have the right to appeal length of placement, as they are specifically excluded from appeal rights under Subp. 2, which is the subpart that adds length of placement as an appealable issue. Subpart 3, lines 8-13, supports this interpretation, as it lays the groundwork for mandatory service continuation when "... the county proposes to terminate a placement ... regardless of provisions of the host county contract."

If the interpretation is accurate, we strongly oppose the implied two-track appeal process. It would leave prepaid health plan enrollees at the mercy of their health plan, while guaranteeing non-enrollees specific amounts of additional service as prescribed. This would appear to be discrimatory solely on the basis of an individual's funding source. Hennepin County would be particularly concerned, in that 100% of our AFDC recipients will be enrolled in managed health care plans by July 1, 1990. Because of the conservative tendency of prepaid health plans in authorizing treatment, it is possible that some of the most vulnerable clients, primarily women and adolescents, will be at the highest risk for not receiving needed care. If there is to be prescribed continuation of services, we strongly urge that it be consistent between these two client groups.

Do we want to mean it to be? If so should we change language

Supb. 3. Length of placement appeal, service continuation.
We have grave reservations about the excessive amounts of service that the counties must continue to provide, particularly as the appeal can be filed up to the day before the county-authorized end date. To base these amounts on the average length of stay for each level of care (as per the "Statement of Need and Reasonableness") is to nearly double the "usual and customary" length of service for primary outpatient and residential rehabilitation. This costly potential seems neither reasonable nor necessary and is at cross-purposes with the cost-containment intent of both this rule and the proposed emergency rule. Similar arguments exist for the continuation of extended care and halfway house services which normally are authorized for 6 months and 90 days respectively.

We urge extreme caution in relying on the related fiscal note which projects only one appeal statewide for each level of care. Perhaps the greatest risk lies with adolescent services which necessarily carry higher costs. When a treatment provider tells a juvenile and/or the court that he or she is not ready to leave, the parent(s) are unlikely to object, and the juvenile can be persuaded to appeal.

We strongly suggest that the prescribed amount of service for each level of care be reduced to no more than one-fourth of the amounts proposed. Whether or not this recommendation is considered, we would also suggest the development of a separate and swift appeal process for clients who are subject to this rule.

Lastly, if the appeal process is to follow Minnesota Statutes, section 256.045, then the omission of this citation from subpart 3. would appear to be an oversight. As drafted, subpart 3 mandates service continuation " ... until the client is discharged by the vendor or according to items A to D whichever occurs first." There is no mention of the possibility that a fair hearing, and a decision from the commissioner might occur first. If, in fact, this process could never occur first, then any reference to the appeals statute itself is questionable.

Subp. 4. Length of placement appeal criteria.
As drafted, these criteria appear vague and somewhat ambiguous. Items B. and C. in particular could each be interpreted in more than one way. In the attendant "Statement of Need and Reasonableness," however, the meanings and intent of the criteria are very well described. We would recommend that these clarifying explanations be incorporated into the language of this subpart.

9530.7000 DEFINITIONS

Subp. 13 Income.
We strongly support the addition of court-ordered child support and health insurance premium payments as exclusions from the definition of income.

Subp. 19. Responsible relative.
We strongly support the expanded definition which releases from liability a spouse or parent who is not/no longer a member of a client's household.

9530.7015 **CLIENT ELIGIBILITY UNDER THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.**

Subp. 2. B.
We strongly support the modification to exclude custodial parents of minor children from the separate fee determination process which applies to clients of halfway houses and, as proposed, to extended care clients.



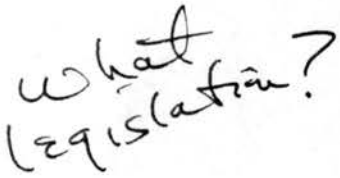
As drafted, the applicable clients " ... shall be billed under part 9530.7020, subpart 4, ..." However, the REPEALER provision, p. 12., repeals Minnesota Rules, part 9530.7020, subparts 3 and 4.

9530.7020 **COUNTY RESPONSIBILITY TO DETERMINE CLIENT ELIGIBILITY FOR CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND AND CLIENT'S ABILITY TO PAY FOR TREATMENT.**

Subp. 1. B.
We strongly support the proposed definition of "household" and the modification to base fees on "household" rather than "family" size.

Subp. 1a. A.
We have no objection to redetermination of fees every six months for clients who remain in the same placement. We recognize that this modification specifically addresses the Methadone Program and have already implemented semi-annual redeterminations for applicable clients.

9530.7022 **PAYMENTS BY A CLIENT OR RESPONSIBLE RELATIVE; FEE SCHEDULE.**



We wish to acknowledge that this rule part, which describes the fee schedule and the categories of financial eligibility, will be moot if the superseding legislation to take effect July 1, 1991, is not repealed. We therefore request representation on any group which the Department might establish to address this issue.

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

This part was apparently drafted prior to the published draft of the related emergency rule. If vendors are to collect and remit client fees to the Department, as proposed by the draft emergency rule, then this part must be revised accordingly. The vendor, rather then the local agency, must take responsibility for determining, verifying and documenting the client's countable income and calculating the resulting fee on a monthly basis. Accordingly, the vendor, rather then the Department, must bill the client.

good point. It isn't clear.

It is possible that we do not have an accurate interpretation of this rule part. Due particularly to subpart C., it is not clear whether a client could be liable for up to the total cost of care, for only the cost of board and lodging, or for each under two separate fee determination mechanisms. In addition to consistency between the two rules, we strongly request clarification of this part in language that will facilitate comprehension and compliance by all parties responsible for implementation.

Sincerely,

Robert T. Olander,
Director, Chemical Health Division

cc: Jan 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, Program Analyst Supervisor, Hennepin County

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 concerning the proposed amendments to Minnesota Rules, parts 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022 and 9530.7024.

Your comments will be extremely helpful in determining final language for these amendments.

A public hearing on one or all of these amendments will be conducted, probably in August. You will receive an official hearing notice when a date has been determined.

Thank you, again, for your thoughtful input. If, at any time, you would like an update on the status of these amendments, please feel free to contact me at 296-8574.

Sincerely,

Lee

Lee V. Gartner
Program Consultant
Chemical Dependency Program Division

sdv

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

RAMSEY COUNTY

Community Human Services Department

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

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

Terry Schutten
Executive Director

May 7, 1990

Alice Weck
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Ms Weck:

I request that a public hearing take place on the matter of the proposed amendments to the Department of Human Services Rules relating to the implementation of the Consolidated Chemical Dependency Treatment Fund.

The proposed change in the appeals process, I believe, needs to be modified or at least considered to be aware of its implications.

Sincerely,

Kevin Flynn

Kevin Flynn, Manager
Ramsey County Detoxification Center
Clinical Services Division

KF:ts



STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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 amendments 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 amendments is Minnesota Statutes, section 254B.03, subdivision 5 which authorizes the commissioner (1) to adopt rules as necessary to implement Laws of 1986, chapter 394, sections 8 to 20; and (2) to establish an appeals process for use by recipients when services certified by the county are disputed.

(2) All persons have 30 days or until 4:30 p.m. on May 23, 1990 in which to submit comment in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule amendment 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: Alice Weck, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-0626.

(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) disregard for clients with unearned income, and an allowance for single parents to support dependent children.

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

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

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

(14) Adoption of these rules as amended will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule amendments is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

If no hearing is required, upon adoption of the rules as amended, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Date:

Aug. 5, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Amendments to Department of Human Services Rules Governing Chemical Dependency Care for Public Assistance Recipients (Minnesota Rules, part 9530.6655) and the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

STATEMENT OF NEED AND REASONABLENESS

Introduction

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 for chemical dependency treatment costs, and removed funds for chemical dependency treatment from medical assistance, general assistance medical care, and general assistance funds.

Rule 25 (parts 9530.6600 to 9530.6660) became effective January 1, 1987. These rule parts establish criteria for county social service agencies to use when determining the appropriate level of care needed by a public assistance recipient seeking chemical dependency treatment. Only part 9530.6655 is open for amendment at this time.

Rule 24 (parts 9530.6800 to 9530.7030) was adopted in June of 1987. These rule parts govern administration of the Consolidated Chemical Dependency Treatment Fund (CCDTF). Parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 99530.7022, and 9530.7024--the rule parts open to amendment--govern definitions, client eligibility criteria, client responsibility to pay for treatment, and the sliding fee schedule.

The proposed amendments address problems which have been identified in the implementation of Rules 24 and 25. The proposed changes result from information the department gathered by surveying counties and by monitoring county files and procedures. The parts proposed for amendment have been identified as the rule parts most difficult for counties to consistently

interpret and apply. The amendments are intended to facilitate counties' interpretation and application of the rule parts.

Minnesota Statutes, section 254B.03, subdivision 5 authorizes the commissioner to "adopt rules as necessary" to implement Laws of Minnesota 1986, chapter 394, sections 8 to 20. Minnesota Statutes, chapter 14 establishes procedures that an agency must follow in adopting rules.

Procedure

The DHS Chemical Dependency Program Division provided numerous opportunities for public participation and comment during the development of the proposed amendments. Notices of Solicitation of Outside Opinion were published in the State Register on August 15, 1988 for amendments to the CCDTF administration rule and on October 24, 1988 for amendments to the appeals process in the rules governing chemical dependency care for public assistance recipients.

The department gathered comment on the proposed amendments by surveying counties about the effectiveness of the treatment fund since its implementation and by presenting drafts of the proposed amendments to the Alcohol and Other Drug Abuse Advisory Council established under Minnesota Statutes, section 254A.04, the American Indian Advisory Council established under Minnesota Statutes, section 254A.035, and the Association of County Social Services Directors rules committee.

The department also presented the draft amendments at a series of department-sponsored training sessions for county social service agencies and chemical dependency treatment providers held in Bemidji on November 14 and 15, 1988; Duluth on November 30 and December 1, 1988; Willmar on December 5 and 6, 1988; and Owatonna on December 7 and 8, 1988.

Over 300 copies of draft amendments were distributed and discussed at the various meetings. All comments and criticisms received were considered by department staff. The department received ten written comments as a result of the Notices of Solicitation and various committee reviews of drafts. These written comments have been submitted as part of the rulemaking record.

The department notified all county agencies on the department's certified mailing list of the proposed amendments, as well as all vendors of chemical dependency programs contained in the Directory of Chemical Dependency Programs in Minnesota 1988/89. The directory list is part of the department's additional mailing list for these amendments.

The need for and reasonableness of the amendments to the adopted rule provisions are established in the following statement of need and reasonableness.

9530.6655 APPEALS.

Subpart 1. Client's right to a second assessment. The substitution at line 35 is necessary to reflect the fact that part 9500.1463 has been repealed and the referenced appeal rights have been shifted to Minnesota Statutes, section 256.045. Applying Minnesota Statutes, section 256.045 is reasonable because that section governs state agency hearings as they apply to prepaid health plans under contract to the commissioner under chapter 256B.

Subp. 2. Client's right to appeal. Adding length of placement as an appealable issue is necessary to make explicit a right the department believed was implicit in part 9530.6655 as adopted. That the provision as adopted does not offer clients the protection the department intended became apparent when an appeal was filed and the appeals referee found no jurisdiction because length of placement was not specifically mentioned in part 9530.6655 as adopted. The department intended length of placement to be an appealable issue to protect clients from arbitrary or premature termination of their placement in a treatment program.

During the amendment process, the department received both written and verbal comments requesting that the right to appeal length of placement be extended to treatment providers when they disagreed with the length of stay determined for a client by a county.

The proposed amendment does not give providers the right to appeal length of stay but limits that right to clients. This position is consistent with the belief that the purpose of the provision is to protect the client's right to receive services rather than the provider's right to provide services. It is also consistent with Minnesota Statutes, 1989 Supplement, section 256.045, subdivision 5 which specifically excludes providers from the appeals process addressed in section 256.045.

It has been the experience of most treatment vendors that if the treatment provider finds the client cannot complete treatment in the time allocated by the county at the time of assessment, the county will extend the length of placement at the provider's request. Such extensions are routine and occur frequently.

Subp. 3. Length of placement appeal, service continuation. This provision is necessary to strike a balance between the need for cost containment and the client's need for continued treatment. Department rules typically allow clients to continue receiving the disputed service for the roughly 90 days it takes for the appeal to be resolved. Providing chemical dependency treatment services, however, presents a unique situation and one which warrants establishing a specified end date for services.

When a client is in chemical dependency treatment the client is vulnerable to influence or pressure from the treatment provider. Counties' comments on the draft amendments indicated concern that some treatment providers would

encourage clients to appeal length of placement in order to enable the provider to continue receiving income from the county while the appeal was pending. The department acknowledges the necessity of having a date certain at which services under appeal would stop. Chemical dependency treatment is expensive--the average cost of one inpatient treatment placement is $3,296--and treatment fund allocations are finite (44 counties exceeded their allocation during fiscal year 1988). At the same time, however, the department also acknowledges the necessity of ensuring that a client has sufficient time to complete a program.

To reconcile these two needs, the department proposes to establish an end-of-service date that allows a client to stay a specified amount of time beyond the original county-determined termination date. The amount of time allowed in each of the four program areas referenced in items A to D is equal to the average length of stay of clients in each of the four program areas between January 1 and December 31, 1988. (The total number of clients in the population on which average length of stay was calculated is 17,000. For data and detail, see the department's Report on the Status of the Consolidated Chemical Dependency Treatment Fund which has been entered into the hearing record as an exhibit item.)

It is reasonable to use average length of stay as the basis for determining how much time to allow beyond the proposed service termination date because an amount of time equal to the average length of stay for 1988 plus the amount of time initially authorized by the county is enough time for most clients to achieve program completion. At the same time, the total of time initially authorized and time equal to average length of stay is considerably less than the 90 days typically allowed for appeal resolution.

At line 13, subpart 3 necessarily indicates that services must continue according to the subpart regardless of provisions in the governing host county contracts to give county agencies and vendors notice that the service extensions proposed in rule would supersede the county contracts.

The department does not find it necessary to provide a right to appeal when the client wishes to reduce the length of treatment. The client is not compelled to continue participating in treatment unless placed under commitment by probate court. Nor is a treatment vendor compelled to keep a client in treatment for the entire period authorized by the county. The vendor may discharge the client at any time if the client is failing to benefit from treatment, violates facility rules established by the treatment program, or completes treatment objectives. Length of stay and discharge for committed clients are governed by Minnesota Statutes, chapter 253B and thus are not addressed by these rule parts.

Subp. 4. Length of placement appeal criteria. Establishing appeal criteria is necessary to help ensure that standards governing appeals are uniformly and consistently applied. It is reasonable to require, as item A does, that usual and customary length of placement be considered because this consideration establishes a known and accepted industry standard against

which the appealed length of placement can be measured.

Considering, as item B does, whether the client has achieved stated objectives is a reasonable standard because continuing treatment for a client who has already achieved his or her placement goals is not fiscally prudent. It is similarly reasonable to assess whether the recipient is benefiting from the placement as stipulated in item C. Continuing a detrimental placement or one which produces no progress is not a sensible use of public funds and may prove harmful to a client. Continued placement may not be necessary if the aftercare plan which addresses a client's needs has addressed the continuing needs of the client. Hence the reasonableness of the requirement in item D.

9530.7000 DEFINITIONS.

Subp. 13. Income. This subpart specifies what does and does not count as income for purposes of determining a client's eligibility for the Consolidated Chemical Dependency Treatment Fund and whether a client or a responsible relative will be responsible for a fee. The amendment is necessary to correct the subpart as written in its treatment of court-ordered payments for child support and health insurance premiums. As adopted, the subpart creates an inequity by requiring persons who **receive** court-ordered child support and health premium payments to report those payments as income but not allowing persons who **pay** court-ordered child support or health premiums to deduct the payments from ordinary income.

It is reasonable to exclude court-ordered child support and health insurance premium payments from consideration when determining an individual's eligibility for public funds to pay for treatment costs because the money expended to make the court-ordered payments is not available to the individual. The money, therefore, cannot reasonably be considered as a means of support for the individual's basic living expenses or treatment costs.

Subp. 17a. Policyholder. While the department seeks to reduce complexity and inequity by limiting financial responsibility to household members (see statement of need and reasonableness for part 9530.7020, subpart 1, item B), it does not seek to absolve third party payors of the obligation to pay for covered services.

The definition of "policyholder" is necessary to facilitate implementation of the amendments to part 9530.7020, subpart 1, item C, and subpart 2, which provide for a determination of third party payment source responsibility for a client's treatment costs. It is necessary to include a definition of "policyholder" because the policyholder may be a person outside the client's household and who is therefore no longer included within the definition of "responsible relative".

The definition is reasonable because it provides that the policyholder be an individual who has an applicable policy which covers the client, and that the policy be a source of payment for treatment costs if it obligates the payor to pay for all or part of a client's treatment costs. It is reasonable for

the state to recognize the availability of a third party payment source for treatment costs and to apply for payment to that source if there is an obligation to pay by a third party. This is the case because public funds allocated for treatment will go further when the state actively pursues making allowable collections from private sources.

Subp. 18. Rehabilitation program. A technical amendment to this subpart is necessary to make the rule consistent with statutory changes to the Human Services Licensing Act, chapter 245A, and to be consistent with the program definitions used in parts 9530.4100 to 9530.4450 (Rule 35) which govern licensure of chemical dependency programs. Part 9530.4100, subpart 22, items B, C and D define the category II, III or IV programs licensed under parts 9530.4100 to 9530.4450. Category II, III, and IV programs are licensed as "rehabilitation programs". Category I programs are not included in the definition of rehabilitation program because they are detoxification programs and are funded separately through the Community Social Services Act rather than the Consolidated Chemical Dependency Treatment Fund.

Subp. 19. Responsible relative. Amending the definition of "responsible relative" is necessary to make the definition consistent with the proposed change in part 9530.0720 from "family" to "household." The proposed definition is reasonable because it, like the "household" language at part 9530.7020, narrows the scope of financial responsibility for a client to persons living in the client's household. It is reasonable to require both the "living with" and "married to" tests of responsibility because this approach clarifies how responsibility is to be allocated when an adult lives within the household of a client but is not the spouse of the client.

Subp. 21. Vendor. Requiring vendors to apply for participation as providers in the medical assistance (MA) program addresses a situation that causes the state to forfeit roughly $70,000 in federal money every year. Several Minnesota vendors meet the MA program requirements to be providers whose services to MA recipients can be underwritten in part by federal funds. But because those vendors have not submitted an application form to the MA program requesting MA provider status, they do not have it. When these eligible-but-not-enrolled vendors treat MA-eligible clients, the full cost of treatment is paid by the state. If the vendors were enrolled, the federal government would share in the cost of treatment.

The department necessarily addresses an identified forfeiture of federal funds because of the department's responsibility to maximize federal financial participation. Requiring all vendors affected by the rule to apply for MA provider status is a reasonable way to try to ensure that all eligible-but-not-enrolled providers will become enrolled. The application process involves completing a single form and there is no fee. The potential benefit of enrolling vendors that already meet the provider eligibility requiremnts offsets the time required of individual vendors (some of whom will not be eligible) to complete the form. The provision does not require vendors that do not meet the eligibility requirements to participate as MA providers to become eligible.

9530.7012 VENDOR AGREEMENTS.

Adding this rule part is necessary to inform local agencies and vendors of the requirement for a cost-per-unit service measure mandated under part 9550.0040, subpart 2 (Rule 160). Grants or contracts to purchase community social services must specify the unit cost of the services provided, either by hour, day, week, or month.

The rule part is also necessary because the federal medical assistance program will reimburse the CCDTF for certain payments to treatment vendors made on behalf of medical assistance clients. Sometimes the reimbursement is for the full cost of care and sometimes it is for treatment services only, depending on such factors as client age and program size and type. To accurately bill for the federal share, the department must be able to distinguish rehabilitation services costs from room and board costs.

It is reasonable to require counties to include this information in the vendor agreements because it is a uniform method of obtaining the data. Each vendor must have a host county agreement to be eligible for Consolidated Chemical Dependency Treatment Fund payments according to Minnesota Statutes, chapter 254B.03, subdivision 1.

It is necessary to define "rehabilitation services costs" because the term as used in part 9530.7012 serves as a standard to which vendors and buyers of services can be held and which vendors and buyers need to know in order to bill and reimburse correctly. It is reasonable to define "rehabilitation services costs" in terms of part 9530.4100, subpart 23, because that rule part governs the provision of rehabilition services in programs licensed under parts 9530.4100 to 9530.4450 and funded under parts 9530.7000 to 9530.7030--the rule governing the consolidated chemical dependency treatment fund. It is reasonable to allow vendors to include related administrative costs as billable costs because rehabilitation services cannot be provided without administrative oversight.

The specific rule parts cited are reasonable because parts 9530.4320 and 9530.4330 describe health and medical services and parts 9530.4380, 9530.4390 and 9530.4400 list the rehabilitation services licensed programs are required to make available to their clients. All CCDTF vendors are licensed and all thus provide these services. It is reasonable as a point of clarification to indicate that vendors of inpatient acute care hospital services are exempt from separating costs.

9530.7015 CLIENT ELIGIBILITY UNDER THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.

Subp. 2. **Client eligibility to have treatment initially paid for from the Consolidated Chemical Dependency Treatment Fund.** The amendment to item B is necessary to make client eligibility characteristics and program terminology in this rule part consistent with part 9530.7024 as proposed for

amendment. The changes in characteristics and terminology are reasonable because the proposed language makes the subpart consistent with the program definitions in the Human Services Licensing Act, chapter 245A, and with the program category definitions in Rule 35 which governs licensure of chemical dependency programs, parts 9530.4100 to 9530.4450.

9530.7020 COUNTY RESPONSIBILITY TO DETERMINE CLIENT ELIGIBILITY FOR CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUNDS AND CLIENT'S ABILITY TO PAY FOR TREATMENT.

Subpart 1. Local agency duty to determine client eligibility and ability to pay. Ability to pay is highlighted to make explicit what is implicit in the subpart as written. The highlighting is done for purposes of clarity. Requiring the use of standardized forms prescribed by the department to determine eligibility and ability to pay is necessary to help ensure that eligibility criteria are uniformly applied to all clients seeking publicly financed treatment. The department has found through its monitoring and review of treatment fund eligibility determinations that individual counties, and sometimes individual eligibility workers within counties, are employing different forms to determine and record eligibility information. Such practices have resulted in variable application of rule provisions.

It is reasonable to attempt to promote standardization by requiring the use of forms prescribed by the department because it is the department that is responsible for ensuring the uniformity, the department that has the overview of all the factors that can affect eligibility, and the department that administers the fund.

The proposed change in item B from "family" to "household" represents a necessary attempt to solve the problems presented by asking counties to determine "family" size and, subsequently, "family" income. Making these determinations has been a source of many of the errors the department has found in monitoring county implementation of the rule parts.

One of the difficulties with the use of "family" is that the rules as written have been interpreted to require consideration of the income of individuals who do not live with the client but who are considered family. The following two examples demonstrate the problem with the term "family" as it is currently used in item B.

Example 1. The client has severed his or her relationship with a spouse, but is not divorced from the spouse. Because the couple are still legally married, the spouse, whether living in a household with the client or not, is still a responsible relative and a member of the "family" under the current rule. If the client refuses to contact the spouse or the spouse refuses to verify income, the client must be denied services. This situation occurs most often in the case of a battered woman.

Example 2. The client is a child living in a single parent household. If the estranged, but not legally divorced, parent refuses to provide income

verification, the client must be denied services. Moreover, if the estranged parent provides information which results in a client fee, it is the custodial parent who gets the bill. Variations of this example could be a noncustodial parent who pays child support and ends up with a client fee in addition to court-ordered support payments or a noncustodial parent who does not pay his or her court- ordered support obligation and is not likely to pay a client fee.

Under the current rule if the responsible relative is a remarried parent, the responsible relative's new spouse and children have been interpreted to be part of the "family."

Substituting "household" for "family," thus limiting financial responsibility to a client's household, is reasonable because it will allow for more consistent application of the eligibility criteria, reduce the number of variables county agencies must assess to determine eligibility, and enhance the opportunity of persons to receive needed chemical dependency treatment.

Because the term "household" is used to determine whose income is available to contribute to the cost of a client's treatment, the term must encompass all persons the person with income is obligated to support.

Item B, subitem (1) is a reasonable description of a minor child's household because it includes those persons in the household who are legally responsible for the child (parents) and those persons for whom the parents are responsible (minor siblings).

Item B, subitem (2) is a reasonable description of an adult's household because it considers the client's income, that of his or her spouse, and all of the children those incomes support.

Item B, subitem (3) reasonably allows including persons in out-of-home placement in household size if a household member contributes to the cost of the person's care. The inclusion is reasonable because all persons the household income supports should be counted in determining how much income is available to pay for the cost of chemical dependency treatment.

Adding a reference to **policyholder** at **item C** is necessary to allow the state to access the resources of an individual who has chemical dependency treatment coverage through insurance or a health maintenance organization. Minnesota Statutes, section 254B.06 requires the commissioner to assume responsibility for all collections from "persons determined to be partially responsible for the cost of care of an eligible person receiving services." It is reasonable to obligate an individual who is already responsible for the treatment costs of a client to contribute toward the costs of the client's care before public funds are expended. It is reasonable for the state to recognize the availability of a third party payment source for treatment costs and apply for payment to that source if there is an obligation to pay.

The substitutions at **item E** are necessary for consistency and clarity.

Changing the term "family" to "household" follows the change explained at item B. The term "department"is substituted for the term "commissioner" to leave no question that the form comes from the department and not the county. The rule as written is subject to interpretation on that point because while the term "commissioner"is frequently used interchangeably with the term "department," "commissioner" may also refer to county agencies which are frequently delegated to act on behalf of the commissioner. Making it clear that the form in question is from the department is necessary to facilitate the process of filling in and returning the correct form.

Subp. 1a. Redetermination of client eligibility and ability to pay a fee. Adding item A is necessary to address a situation not addressed in the rule as written--what the local agency is to do about redetermining eligibility and obligation to pay for recipients who are in extended rehabilitation programs and who are not covered by subpart 4 as written (part 9530.7024 as proposed for adoption). The rule needs to address the situation because there are clients, such as those on methadone, who may be receiving extended treatment for the rest of their lives. It is reasonable to reassess treatment fund eligibility and sliding fee responsibilities periodically to ensure that client benefits and payments reflect the client's current situation. It is reasonable to redetermine every six months because the total obligation on the sliding fee scale is based on what an individual with a specific income can pay in a six month period. Six month redetermination will therefore insure a continuous assessment of a reasonable fee.

The changes to items B, C, D, and E are necessary to make the rule consistent with the Human Services Licensing Act, Minnesota Statutes, chapter 245A, and with the program category definitions used in parts 9530.4100 to 9530.4450 (Rule 35) governing licensure of chemical dependency programs. The amendments are reasonable because they clarify which programs are meant in terms of licensed program categories and thus provide a common definition which can be consistently applied statewide. The exclusion of custodial parents of minor children and the addition of Category III programs in item E are necessary to be consistent with new part 9530.7024 as proposed.

Subp. 2. Client, responsible relative, and policyholder obligation to cooperate. Requiring the policyholder as well as the client and responsible relative to provide the information and verification required in the subpart is necessary to support the local agency in meeting its responsibility to determine the availability of a third party payment source under subpart 1, item C. If a policyholder has a policy that may be applied to a client's treatment costs, it is reasonable to require the policyholder to cooperate in making the benefits known and available. This requirement is consistent with Minnesota Statutes, section 254B.06, subdivision 1 which requires the commissioner to make all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under the CCDTF.

Subp. 3 [Repealed]. Repealing subpart 3 is necessary to remove the

1988-specific numbers in subpart 3 as written and to replace the 1988 fee schedule with a **system** (emphasis added) for determining obligation and fees. The approach to determining fee schedules indicated in new part 9530.7022 meets the need to keep the rule current on data related to obligation and fees without having to revise the rule annually.

Subp. 4. [Repealed] To facilitate use of a frequently consulted part of the rule, the department has made a separate rule part (9530.7024, CLIENT FEES FOR CATEGORY III AND IV PROGRAMS) out of what was part 9530.7020, subpart 4, **Halfway house client fees**. New part 9530.7024 incorporates the amendments proposed to former part 9530.7020, subpart 4. Repealing the subpart and showing the new part as all new material was recommended by the Revisor of Statutes...

9530.7022. PAYMENTS BY CLIENT OR RESPONSIBLE RELATIVE; FEE SCHEDULE.

Subpart 1. Payments by a client or responsible relative. Subp. 2. Fee schedule. Subparts 1 and 2 are necessary to replace the 1988-specific fee schedule repealed in part 9530.7020 with a **system** for determining obligation. This need arises because it is reasonable to base obligation and fee determinations on up-to-date indicators and indices, such as state median income, that are subject to change. It is further reasonable for the rule to communicate current information on these points. It is not reasonable to keep the rule current on specific **numbers** (emphasis added) by amending the rule annually through the rulemaking process because of the time and expense involved. The rulemaking process, with its emphasis on public input and public scrutiny, is required for changes in how the schedule is applied, to whom it is applied, how it was developed, or how frequently it is updated. The annual changes in fees would address none of those changes.

As an alternative to amending the rule annually, the department has chosen to add a new rule part number and describe in it how the numbers in the repealed fee schedule were arrived at. As the figure for most recent state median income changes annually, the schedules will be revised annually and published in the State Register as described in subparts 1 and 2. The new rule part is added to facilitate use of a frequently consulted part of the rule.

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

This new rule part incorporates changes to what was formerly part 9530.7020, subpart 4, **Halfway house-client fees**, and adds new material as well. Designating a separate rule part to describe these specific fees is done to facilitate use of a frequently consulted part of the rule. Changing "halfway house" to "Category III and IV program" is necessary to make the language in this rule consistent with the licensed program categories established in parts 9530.4100 to 9530.4450 and to make it clear that the rule part as amended includes clients in extended care (Category III) as well as clients in halfway houses (Category IV).

It is reasonable to include clients in extended care as well as clients in halfway houses because several halfway houses have converted their licensing status from Category IV to Category III since these rules were adopted. The programs are, however, serving the same clientele the programs served as category IV or halfway houses so the same reasoning about the client's ability to pay applies. It is also reasonable to include Category III clients in this particular sliding fee scale because Category III clients on Supplemental Security Income (SSI) may have their payments suspended if the client is not charged for basic needs provided in the program. The inclusion, moreover, is authorized in Minnesota Statutes, 1989 Supplement, section 254B.04, subdivision 2.

The reasoning about ability to pay is that program III or IV clients to whom the particular sliding fee established in this subpart applies (i.e., clients who are in halfway houses, who have no responsible relatives, and who are not custodial parents of a minor child) are not likely to be contributing to a household while they are in a halfway house or extended care facility. It is therefore assumed that such a client can apply more of the client's income to the client's cost of care than would be the case if the client were also contributing to a household or supporting a child. Establishing the separate scale is authorized by Minnesota Statutes, section 254B.04, subdivision 2.

The income disregards based on Minnesota Statutes that are established at **Item A** are necessary to allow a client to set some money aside so the client has funds available when he or she completes the program and wants to establish an independent living situation. It is reasonable to apply the disregard to unearned as well as earned income because the client's need for funds to establish an independent living situation is the same regardless of the source of income.

The deductions allowed for child support payments at **Item B** are necessary because the money that goes to make the payment is no longer available to be applied toward the client's treatment costs. Allowing the deductions is reasonable because the department wants to encourage clients to pay child support while they are in treatment.

The verification required by item B is necessary to ensure that only payments that have actually been made are deducted. Allowing the deductions without verification would risk needless spending of public funds in the form of greater amounts paid from the Fund toward clients' treatment costs than needed to be spent because the disregard should not have been made. It is unreasonable to expend public resources for need that is not verified.

To treat custodial and noncustodial parents equitably, it is also necessary to allow the disregard in situations where, for example, single parents are separated from their children only for the duration of treatment. In such cases, there is no court order to set the amount of the payment and hence the amount of the allowable deduction. It is therefore necessary to establish standards for determining the amount of the deduction. It is reasonable to

use as a standard for limiting the disregard the support standard in state regulations governing programs for families with dependent children because the AFDC standard is relevant to child support and can be uniformly applied statewide. Requiring local agencies to record the method used to verify a client's payments is necessary to aid in monitoring compliance with this subpart. It is reasonable to expect the local agency to verify the payments because it is the local agency's duty to determine client eligibility for funding and knowing whether the payments were made is a necessary part of the determination.

It is necessary to add the words "board and lodging expenses for" to **item C** to make the language in the rule consistent with Minnesota Statutes, section 254B.04, subdivision 2, which states that "the commissioner shall establish aseparate fee scale for recipients of chemical dependency transitional rehabilitation services that provides for the collection of fees for board and lodging expenses. . ." It is reasonable to make this change to ensure that the rule provision is consistent with statute and that clients are not charged more than the legislature intended.

Changing "commissioner" to "department" in **item D** is necessary because the term "department" means only the department of human services, while the term "commissioner" could be construed to include county agencies which are frequently delegated to act on behalf of the commissioner. In this instance, it is important to make it clear that the form to be used is the form supplied by the department. The changes in reference at **item E** are technical and necessary to make the item consistent with other proposed amendments in this part. **Item F** is necessarily added to ensure compliance with the applicable provisions of Minnesota Statutes, section 256D.06, subdivision 1b.

Expert Witnesses

If the proposed amendments should go to public hearing, the department does not plan to use expert witnesses from outside the department to testify on its behalf.

Small Business Consideration

The requirements of Minnesota Statutes, section 14.115 do not apply. Programs and services governed by these rule parts are service businesses regulated by government bodies for standards and costs and are therefore exempt from Minnesota Statutes, section 14.115 under subdivision 7 (c).

Date: 9/5, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendments to Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, Part 9530.6655 and parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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 amendments 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 amendments is Minnesota Statutes, section 254B.03, subdivision 5 which authorizes the commissioner (1) to adopt rules as necessary to implement Laws of 1986, chapter 394, sections 8 to 20; and (2) to establish an appeals process for use by recipients when services certified by the county are disputed.

All persons have 30 days or until 4:30 p.m. on June 7, 1990 in which to submit comment in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment 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: Alice Weck, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-0626.

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

The proposed amendments affect the two DHS rules known informally as Rule 24 (Minnesota Rules, parts 9530.6800 to 9530.7030) and Rule 25 (Minnesota Rules, parts 9530.6600 to 9530.6660). Rule 24 governs the administration of the Consolidated Chemical Dependency Treatment Fund (CCDTF). Rule 25 establishes criteria county social service agencies use when determining the appropriate level of care needed by a public assistance recipient seeking chemical dependency treatment. Rules 24 and 25 affect counties, providers of chemical dependency treatment services, and persons who receive CCDTF-funded services.

The proposed amendments reflect the department's discussions of rule implementation with providers and counties since rules 24 and 25 were promulgated in 1987. The amendments are proposed to change the rule parts identified as being most difficult for counties to implement consistently.

Only one part of Rule 25 would be changed by the proposed amendments. That part--Minnesota Rules, part 9530.6655--would specify that length of placement is an appealable issue for a client, specify how long services must be provided while an appeal is pending, and establish criteria to be considered by appeals referees and the commissioner in deciding length-of-placement appeals.

The proposed changes affect six parts of Rule 24. In part 9530.7000, Definitions, changes are proposed to the definitions of income, rehabilitation program, responsible relative, and vendor. The term "policyholder" is added and defined.

Part 9530.7012, Vendor Agreements, is a new part added to inform local agencies and vendors that agreements between vendors and local agencies must distinguish client per unit room and board costs from per unit rehabilitation services costs. The new rule part also defines rehabilitation services costs.

Part 9530.7015, Client Eligibility under the Consolidated Chemical Dependency Treatment Fund, has editorial and technical changes needed to make language in this rule part consistent with language in other parts of the rule.

Part 9530.7020, County Responsibility to Determine Client Responsibility for Consolidated Chemical Dependency Treatment Funds and Client's Ability to Pay for Treatment, specifies that ability to pay as well as eligibility is to be determined by the local agency and includes several changes intended to simplify and standardize eligibility determination.

Part 9530.7022, Payments by a Client or Responsible Relative; Fee Schedule, is a new part that replaces the charts showing sliding fee scales and substitutes an explanation of how payments and fees are determined.

Part 9530.7024 is also a new rule part. It incorporates changes to what was formerly part 9530.7020, subpart 4, Halfway house-client fees, and adds new material as well. Changes to the halfway house fee determination addressed in this part include its application to extended care clients, a

disregard for clients with unearned income, and an allowance for single parents to support dependent children.

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

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

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

Adoption of these rules as amended will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule amendments is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

If no hearing is required upon adoption of the rules as amended, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Date: Aug. 5, 1990

ANN WYNIA
COMMISSIONER OF HUMAN SERVICES

RECEIVED

DEC 11 1990

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

Southwestern
• Mental Health •
Center, Inc.

July 2, 1990

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

Dear Lee:
I am writing to ask that you take our names off the petition for a public hearing regarding Rule 24. It is my understanding from Julie Heig that she did talk to you on the telephone. We are in agreement with the suggestions you made and at this point, see no reason to continue a request for a hearing. I hope to be seeing you again soon.

Sincerely,

Ellen McGee, CCDCR

Ellen McGee, C.C.D.C.-R
Outpatient Primary Program Director

Julie Heig

Julie Heig, C.C.D.P.
Chemical Dependency Services Coordinator

EM/JH:dk

☐ **Luverne Office**
2 Round Wind Road
Luverne, MN 56156
507-283-9511

☐ **Pipestone Office**
201 South Hiawatha
Pipestone, MN 56164
507-825-5888

☐ **Windom Office**
Windom Industrial Park
Windom, MN 56101
507-831-2090

☑ **Worthington Office**
1024 7th Avenue
Worthington, MN 56187
507-376-4141

☐ **Unity House**
1224 Fourth Avenue
Worthington, MN 56187
507-372-7671

An Equal Opportunity Employer

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

Sioux Valley Hospital
Health One

July 3, 1990

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

Dear Lee:

We hereby request to withdraw our names from the petition which was asking for a public hearing regarding Rules 9530. This request for withdrawal of our names is contingent upon the inclusion in the rule of language which would allow for third party payment agreements, as we have discussed with you.

Sincerely,

Steve Schneider
Director of Behavioral Health Services

Ken Hicks
Community Services Coordinator

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Human Services

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

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 amendments 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 amendments is *Minnesota Statutes*, section 254B.03, subdivision 5 which authorizes the commissioner (1) to adopt rules as necessary to implement *Laws of 1986*, chapter 394, sections 8 to 20; and (2) to establish an appeals process for use by recipients when services certified by the county are disputed.

All persons have 30 days or until 4:30 p.m. on May 23, 1990 in which to submit comment in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment 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

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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: Alice Weck, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-0626.

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

The proposed amendments affect the two DHS rules known informally as Rule 24 (*Minnesota Rules*, parts 9530.6800 to 9530.7030) and Rule 25 (*Minnesota Rules*, parts 9530.6600 to 9530.6660). Rule 24 governs the administration of the Consolidated Chemical Dependency Treatment Fund (CCDTF). Rule 25 establishes criteria county social service agencies use when determining the appropriate level of care needed by a public assistance recipient seeking chemical dependency treatment. Rules 24 and 25 affect counties, providers of chemical dependency treatment services, and persons who receive CCDTF-funded services.

The proposed amendments reflect the department's discussions of rule implementation with providers and counties since Rules 24 and 25 were promulgated in 1987. The amendments are proposed to change the rule parts identified as being most difficult for counties to implement consistently.

Only one part of Rule 25 would be changed by the proposed amendments. That part—*Minnesota Rules*, part 9530.6655—would specify that length of placement is an appealable issue for a client, specify how long services must be provided while an appeal is pending, and establish criteria to be considered by appeals referees and the commissioner in deciding length-of-placement appeals.

The proposed changes affect six parts of Rule 24. In part 9530.7000, Definitions, changes are proposed to the definitions of income, rehabilitation program, responsible relative, and vendor. The term "policyholder" is added and defined.

Part 9530.7012, Vendor Agreements, is a new part added to inform local agencies and vendors that agreements between vendors and local agencies must distinguish client per unit room and board costs from per unit rehabilitation services costs. The new rule part also defines rehabilitation services costs.

Part 9530.7015, Client Eligibility under the Consolidated Chemical Dependency Treatment Fund, has editorial and technical changes needed to make language in this rule part consistent with language in other parts of the rule.

Part 9530.7020, County Responsibility to Determine Client Responsibility for Consolidated Chemical Dependency Treatment Funds and Client's Ability to Pay for Treatment, specifies that ability to pay as well as eligibility is to be determined by the local agency and includes several changes intended to simplify and standardize eligibility determination.

Part 9530.7022, Payments by a Client or Responsible Relative; Fee Schedule, is a new part that replaces the charts showing sliding fee scales and substitutes an explanation of how payments and fees are determined.

Part 9530.7024 is also a new rule part. It incorporates changes to what was formerly part 9530.7020, subpart 4, Halfway house-client fees, and adds new material as well. Changes to the halfway house fee determination addressed in this part include its application to extended care clients, a disregard for clients with unearned income, and an allowance for single parents to support dependent children.

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

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

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Ann Wynia
Commissioner of Human Services

Rules as Proposed

9530.6655 APPEALS.

Subpart 1. **Client's right to a second assessment.** A client who has been assessed under part 9530.6615, and who disagrees with the level of chemical dependency care proposed by the assessor, shall have the right to request a second chemical use assessment. The county or the prepaid health plan shall inform the client in writing of the right to request a second assessment at the time the client is assessed for a program placement. The county or the prepaid health plan shall also inform the client that the client's request must be in writing or on a form approved by the commissioner, and must be received by the county or the prepaid health plan within five working days of completion of the original assessment or before the client enters treatment, whichever occurs first.

The county or the prepaid health plan shall provide a second chemical use assessment by a different qualified assessor within five working days of receipt of a request for reassessment. If the client agrees with the second level of care determination, the county or the prepaid health plan shall place the client in accordance with parts 9530.6625 to 9530.6650 and the second assessment.

If, after receiving the second assessment, a client who is not an enrollee in a prepaid health plan still disagrees with the county's level of care determination, the client has a right to appeal under subpart 2. If, after receiving the second assessment, a client who is enrolled in a prepaid health plan still disagrees with the prepaid health plan's proposed level of care, the client has the right to an appeal under ~~part 9500.1463~~ *Minnesota Statutes*, section 256.045.

Subp. 2. **Client's right to appeal.** Clients who are denied an assessment under part 9530.6615, denied a second assessment under subpart 1, denied placement, or who disagree with the level of chemical dependency care proposed ~~shall~~ or length of placement have the right to a fair hearing under *Minnesota Statutes*, section 256.045. Notice of the right to appeal must be given ~~in accordance with~~ according to part 9550.0092.

Subp. 3. **Length of placement appeal, service continuation.** If an appeal on the length of placement is filed before the date the county proposes to terminate a placement, services shall continue until the client is discharged by the vendor or according to items A to D, whichever occurs first. Services must continue according to this subpart regardless of provisions of the governing host county contract.

A. Services shall be provided by an outpatient rehabilitation program for 52 hours of service past the proposed service termination date.

B. Services shall be provided by a category II primary residential rehabilitation program, whether in a hospital or freestanding facility, for 24 days past the proposed service termination date.

C. Services shall be provided in a category III extended care residential program for 55 days past the proposed service termination date.

D. Services shall be provided in a category IV halfway house residential facility for 54 days past the proposed service termination date.

Subp. 4. **Length of placement appeal criteria.** The recommendations of an appeals referee and the decision of the commissioner on length of placement appeals shall be based on the following criteria:

A. the usual and customary length of placement for the level of care received by the client;

B. whether the client has achieved the objectives stated in the client's individual treatment plan;

C. whether the client is making satisfactory progress toward achieving the objectives stated in the client's individual treatment plan; and

D. whether there is an aftercare plan that reasonably addresses the client's needs for continued service.

9530.7000 DEFINITIONS.

[For text of subps 1 to 12, see M.R.]

Subp. 13. **Income.** "Income" means the total amount of cash received by an individual from the following sources:

A. cash payments for wages or salaries;

B. cash receipts from nonfarm or farm self-employment, minus deductions allowed by the federal Internal Revenue Service for business or farm expenses;

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C. regular cash payments from social security, railroad retirement, unemployment compensation, workers' union funds, veterans' benefits, Aid to Families with Dependent Children, Supplemental Security Income, General Assistance, training stipends, alimony, child support, and military family allotments;

D. cash payments from private pensions, government employee pensions, and regular insurance or annuity payments;

E. cash payments for dividends, interest, rents, or royalties; and

F. periodic cash receipts from estates or trusts.

Income does not include capital gains; any cash assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; tax refunds, gifts, lump sum inheritances, one time insurance payments, or compensation for injury; court-ordered child support or health insurance premium payments made by the client or responsible relative; and noncash benefits such as health insurance, food or rent received in lieu of wages, and noncash benefits from programs such as Medicare, Medical Assistance, Food Stamps, school lunches, and housing assistance. Annual income is the amount reported and verified by an individual as current income calculated prospectively to cover one year.

[For text of subps 14 to 17, see M.R.]

Subp. 17a. **Policyholder.** "Policyholder" means a person who has a third party payment policy under which a third party payment source has an obligation to pay all or part of a client's treatment costs.

Subp. 18. **Rehabilitation program.** "Rehabilitation program" means a program of chemical dependency rehabilitation ~~provided in a residential facility as~~ defined in part 9530.4100, subpart 22, as a category II, III, or IV program licensed under parts 9530.4100 to 9530.4450 and *Minnesota Statutes*, ~~section 245.782, subdivision 6~~ chapter 245A.

Subp. 19. **Responsible relative.** "Responsible relative" means a person who is a member of the client's household and is a client's spouse ~~and~~ or the parent of a minor child who is a client.

[For text of subp 20, see M.R.]

Subp. 21. **Vendor.** "Vendor" means a licensed provider of chemical dependency treatment services ~~who~~ that meets the criteria established in *Minnesota Statutes*, section 254B.05, and that has applied according to part 9505.0195 to participate as a provider in the medical assistance program.

9530.7012 VENDOR AGREEMENTS.

When a local agency enters into an agreement with a vendor of chemical dependency treatment services under parts 9550.0010 to 9550.0092, the agreement must distinguish client per unit room and board costs from per unit rehabilitation services costs.

For purposes of this part, "rehabilitation services costs" are costs, including related administrative costs, of services that meet the criteria in items A to C:

A. The services are provided within a category II, III, or IV rehabilitation program as those categories are defined in part 9530.4100, subpart 22.

B. The services meet the definition of rehabilitation services in part 9530.4100, subpart 23.

C. The services meet the applicable service standards for categories II, III, and IV rehabilitation programs specified in parts 9530.4320, 9530.4330, 9530.4380, 9530.4390, and 9530.4400.

This part does not apply when a county contracts for chemical dependency services in an acute care inpatient hospital licensed by the Department of Health under chapter 4640.

9530.7015 CLIENT ELIGIBILITY UNDER THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.

[For text of subpart 1, see M.R.]

Subp. 2. **Client eligibility to have treatment initially paid for from the Consolidated Chemical Dependency Treatment Fund.** Except as provided under subpart 4, item D, a client who has an income between 60 and 115 percent of the state median income, as determined by the local agency under part 9530.7020, subpart 1, and who does not have an available third-party payment source shall be eligible to have treatment paid for with Consolidated Chemical Dependency Treatment Funds, as follows:

[For text of item A, see M.R.]

B. If a client ~~with~~ who has no responsible relatives and who is not the custodial parent of a minor child is placed in a ~~halfway house~~ category III or IV program, the client shall be billed under part 9530.7020, subpart 4, if the client's countable income is less than the sum of the negotiated rate plus the clothing and personal needs allowance and the earned income disregard allowed under *Minnesota Statutes*, section 256D.06, subdivisions 1 and 1b.

[For text of subps 3 and 4, see M.R.]

9530.7020 COUNTY RESPONSIBILITY TO DETERMINE CLIENT ELIGIBILITY FOR CONSOLIDATED CHEMICAL.

DEPENDENCY TREATMENT FUNDS AND CLIENT'S ABILITY TO PAY FOR TREATMENT.

Subpart 1. **Local agency duty to determine client eligibility and ability to pay.** The local agency shall determine a client's eligibility for consolidated chemical dependency treatment funds and the client's or a responsible relative's ability to pay a fee at the time the client seeks treatment and is assessed under parts 9530.6600 to 9530.6655. Client eligibility and the ability to pay a fee must be determined using forms prescribed by the department. To determine a client's eligibility, the local agency must determine the client's income, the size of the client's ~~family~~ household, the availability of a third party payment source, and a responsible relative's ability to pay for the client's chemical dependency treatment, as specified in items A to ~~F~~ E:

[For text of item A, see M.R.]

B. The local agency must determine the client's ~~family~~ household size according to subitems (1), (2), and (3). ~~A client's family size shall include the client, the client's spouse, and the number of dependents claimed by the client or the client's spouse on his or her individual federal income tax return. If the client is a minor child, the family size shall include the client, the client's parents, and the client's siblings who are claimed as dependents on the client's parent's individual federal income tax return.~~

(1) If the client is a minor child, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's birth or adoptive parents; and

(c) the client's siblings who are minors.

(2) If the client is an adult, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's spouse;

(c) the client's minor children; and

(d) the client's spouse's minor children.

(3) For purposes of this item, household size includes a person listed in subitems (1) and (2) who is in out-of-home placement if a person listed in subitem (1) or (2) is contributing to the cost of care of the person in out-of-home placement.

C. The local agency must determine the availability of a third party payment source, including the availability of total payment, partial payment, amount of copayment, and any special conditions or procedures the third party payor requires clients and policyholders to follow. The local agency shall require the client and policyholder to follow all special conditions or procedures established by the third party payment source, including the third party payment source's appeal and grievance procedure, and shall require the client and policyholder to assign to the department his or her rights and the rights of minor children to benefits or services provided to the client. The local agency shall require the ~~client~~ policyholder to provide verification of the client's third party payment source's approval or refusal to pay for chemical dependency treatment services before the local agency places the client. If the client or ~~responsible relative~~ policyholder is unable to provide verification of the third party payment source's approval or refusal, the local agency must assist the client and policyholder to obtain the verification. If the client or ~~responsible relative~~ policyholder, with the assistance of the local agency, is still unable to obtain verification from the ~~client's~~ third party payment source, the local agency shall place the client.

[For text of item D, see M.R.]

E. The local agency shall apply the information on the client's and responsible relative's income and ~~family~~ household size to the sliding fee scale established in subpart ~~3~~ 3b, and determine the ~~monthly payment amount and the total obligation~~ fee for which the client or responsible relative is liable. The local agency shall record this information on a form supplied by the ~~commissioner~~ department, and send the form to the department.

Subp. 1a. **Redetermination of client eligibility and ability to pay a fee.** ~~F.~~ The local agency shall reassess a client's eligibility, redetermine the client's and responsible relative's ability to pay for chemical dependency treatment services, and redetermine the client's and responsible relative's ~~total obligation and monthly payment amount~~ fee as specified in ~~subitems (1) to (4)~~ items A to E. For purposes of this ~~item~~ subpart, placement of a client into more than one chemical dependency treatment program in less than ten working days, or placement of a client into a chemical dependency treatment program that is structured to provide rehabilitation services followed by outpatient chemical dependency treatment services shall be treated as a single placement.

A. Except for a client whose fee is determined under part 9530.7024, the local agency shall redetermine a client's eligibility

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for consolidated chemical dependency treatment funds and the client's and responsible relative's ability and obligation to pay a fee for treatment services every six months after the initial eligibility determination if the client remains in the same placement.

~~(1)~~ B. The local agency shall reassess a client's eligibility, redetermine the client's and responsible relative's ability to pay for chemical dependency treatment services, and redetermine the client's and responsible relative's ~~total obligation and monthly payment amount~~ fee each time a client is placed for chemical dependency treatment services. The ~~total obligation~~ fee for a second or subsequent placement shall be added to any unpaid fee obligation of the client or responsible relative~~, and the monthly~~. Payments for a second or subsequent placement shall begin in the month following the last monthly billing from the previous fee obligation.

~~(2)~~ C. When two or more clients, for whom another client or responsible relative is financially responsible, are placed for chemical dependency treatment services, the local agency shall add the total fee obligation for the second or subsequent client to the unpaid fee obligation of the client or responsible relative~~, and~~. The ~~monthly~~ payments for the second or subsequent client shall begin in the month following the last monthly billing from the previous fee obligation.

~~(3)~~ D. If a client ~~with~~ who has no responsible relatives and who is not the custodial parent of a minor child is placed in a ~~halfway house~~ category III or IV rehabilitation program licensed under parts 9530.4100 to 9530.4450, the client's obligation to make ~~monthly~~ fee payments for a previous placement shall be suspended~~,~~ and the client's ~~monthly~~ fee obligation while in the ~~halfway house~~ program shall be determined by the local agency ~~in accordance with subpart 4~~ according to part 9530.7024. The client's obligation to ~~resume making monthly~~ make payments on the fee obligation for a previous placement shall resume 30 days after the client is discharged from the ~~halfway house~~ program.

~~(4)~~ E. If a client ~~with~~ who has a responsible relative or who is the custodial parent of a minor child is placed in a ~~halfway house~~ category III or IV rehabilitation program licensed under parts 9530.4100 to 9530.4450, the local agency shall reassess the client's and responsible relative's ability to pay for chemical dependency treatment services ~~shall be reassessed, the local agency shall~~ and redetermine the client's and responsible relative's ~~total~~ fee obligation ~~and monthly payment amount, and~~. The client and the responsible relative must continue to make monthly payments ~~in accordance with subitem (1)~~ according to item B.

Subp. 2. **Client ~~and~~, responsible relative, and policyholder obligation to cooperate.** A client ~~and~~, responsible relative, and policyholder shall ~~cooperate with the local agency~~ shall provide income or wage verification, ~~family~~ household size verification, information on any special procedures required by the client's or ~~responsible relative's~~ policyholder's third party payment source, and shall make an assignment of third party payment rights under subpart 1, item C. If a client ~~or~~, responsible relative, or policyholder does not ~~cooperate~~ comply with the provisions of this subpart, the client shall be deemed to be ineligible to have Consolidated Chemical Dependency Treatment Funds pay for his or her chemical dependency treatment, and the client and responsible relative shall be obligated to pay for the full cost of chemical dependency treatment services provided to the client.

Subp. 3. and 4. [See Repealer.]

9530.7022 PAYMENTS BY A CLIENT OR RESPONSIBLE RELATIVE; FEE SCHEDULE.

Subpart 1. **Payments by a client or responsible relative.** The fee to be paid by a client or responsible relative for chemical dependency treatment shall be determined according to this subpart and the fee schedule specified in subpart 2, and shall be redetermined according to part 9530.7020, subpart 1a.

A. A client or responsible relative whose household income falls between zero and 60 percent of the annual state median income, as defined in subpart 2, shall pay no fee.

B. A client or responsible relative whose household income falls between 60 and 115 percent of the annual state median income, as defined in subpart 2, must pay a fee to the department toward the cost of the client's chemical dependency treatment. The total amount a client or responsible relative is obligated to pay shall not exceed the total cost of the client's chemical dependency treatment services for a treatment placement, including room and board costs.

C. A client or responsible relative whose household income is at or above 115 percent of the annual state median income is not eligible for consolidated chemical dependency fund subsidy of treatment costs, and is obligated to pay for the full cost of treatment.

Subp. 2. **Fee schedule.** The department shall develop a fee schedule and adjust it annually based on the most recent annual state median income for a four-person family published in the *Federal Register* by the United States Department of Health and Human Services for the current federal fiscal year.

The department shall publish the adjustments annually in the State Register on the last Monday in June.

The fee schedule shall have annual and monthly income matrixes based on household sizes ranging from one to ten persons. The annual and monthly income matrixes must begin at 60 percent of the current annual state median income and end at 115 percent of the current annual state median income.

The fee schedule shall be divided into equal steps for each $900 increase in income between 60 percent and 115 percent of the current annual state median income. The fee is $60 for the first step above 60 percent of the state median income for each household

size matrix. The fee for each subsequent income step can be calculated by totalling items A, B, and C and multiplying the total by 104 percent to adjust for inflation:

A. the amount of the fee for the previous step;

B. $30; and

C. 12 times the number of steps that precede the step for which the fee is being calculated.

Copies of the current fee schedule may be obtained by contacting the Minnesota Department of Human Services, Chemical Dependency Program Division, 444 Lafayette Road, Saint Paul, MN 55155-3823.

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

When a client who has no responsible relatives and who is not the custodial parent of a minor child is placed in a category III or IV program licensed under parts 9530.4100 to 9530.4450, the local agency shall determine the client's countable income in accordance with parts 9500.1200 to 9500.1318.

A. The local agency shall subtract the amount established as the clothing and personal needs allowance for medical assistance recipients under *Minnesota Statutes*, section 256B.35, subdivision 1, and the amount established as an additional earned income disregard under *Minnesota Statutes*, section 256D.06, subdivision 1b, from the client's countable income, whether the client's income is earned or unearned.

B. If the client is regularly contributing to the financial support of the client's natural or adopted minor child or children, the local agency shall verify the support payment and subtract the amount specified in a court order, if one exists. If no court order exists, the local agency shall determine the number of dependent children the client supports and subtract the amount paid, up to the amount specified for that number of children in the standards for aid to families with dependent children established in part 9500.2440, subpart 6. The local agency shall verify child support payments made through a bank statement, a canceled check, a receipt, or through the public agency responsible for child support enforcement. The method of verification must be recorded in the client's case record.

C. The local agency shall subtract the amount of income that remains from the negotiated rate for board and lodging expenses for the category III or IV program to determine how much of the negotiated rate shall be paid for with funds from the Consolidated Chemical Dependency Treatment Fund.

D. The local agency shall record this information on a form supplied by the department, and send the form to the department. The department shall bill the client monthly, according to the information supplied by the local agency.

E. The local agency shall make a monthly redetermination of the countable income of a client in a category III or IV program, and the amount the client owes toward the negotiated rate according to this part.

F. The client may make expenditures from income subtracted according to *Minnesota Statutes*, section 256D.06, subdivision 1b, on approval of the local agency.

REPEALER. *Minnesota Rules*, part 9530.7020, subparts 3 and 4 are repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Household Hazardous Waste

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rules without a public hearing following the procedure set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The Agency's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.07, subd. 4.

All persons have until 4:30 p.m. on May 23, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

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

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund (Minnesota Rules, parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024)

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

(1) Notice of the commissioner's intent to adopt the above-entitled rule parts (plus part 9530.6655, now withdrawn) without a public hearing was published in the State Register on April 23, 1990 and again on May 7, 1990. The original notice and the notice of resubmission were 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 April 18, 1990 and May 2, 1990 respectively. (2) The statement of need and reasonableness was prepared before the notices of intent to adopt a rule without a public hearing were 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 comments on the rule for a total of 45 days between the April 23 publication date of the original notice and the June 7 closing date for comments on the resubmitted notice published May 7. Both the original notice published April 23, 1990 and the resubmission published May 7, 1990 referenced part 9530.6655 in addition to the six parts referenced above.

(5) The agency received one petition signed by 26 people requesting a public hearing on "proposed changes to Minnesota Rules 9530.6600 to 9530.6655" and an additional request from one individual who specifically requested a public hearing on part 9530.6655. None of the 27 requests for a hearing on the proposed amendments to part 9530.6655 was withdrawn.

(3) The department also received another petition signed by 25 persons and four more single requests for a hearing. Those 29 requests referenced all seven rule parts but the petition explicitly named "the lack of parameters regarding accessing third party payment in lieu of using CCDTF" as a particular concern. Meeting that concern requires adding a new rule part rather than modifying an existing part. When the department indicated it would draft the new rule part and take it to the public hearing already required for part 9530.6655, seven of the 25 signers of the petition withdrew in writing their request for a hearing.

(5) On six of the seven rule parts, then, the agency did not receive requests 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.

The department has withdrawn the proposed amendments to part 9530.6655 from this action and will proceed to public hearing with part 9530.6655 and a new part providing for third party payments. Meanwhile, the department proposes to adopt the noncontroversial amendments to parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024.

The original copies of comments in this record regarding length of placement appeals (part 9530.6655) and third party payments (new part to be added) have been held for inclusion in the record of the hearing-bound amendments. Copies of the comments are included here.

(13) The fiscal note originally developed for the seven rule parts remains the same except that the costs related to part 9530.6655 are dropped. Dropping those costs increases the savings to the state projected by the fiscal note by nearly $10,000 per year in each of the first two years after the rule is effective.

Based on the comments and evidence germane to parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024 in the record before the agency, I find the following:

During the public comment period following publication of the rule in the State Register, the agency received written comments from: the director of community health and social services for Anoka County; the director of the chemical health division of Hennepin County's community services department; the program director of Dayton House in St. Paul; and the director of behavioral health at Sioux Valley Hospital in New Ulm.

The department appreciates the indications of support received from Anoka and Hennepin counties on several of the provisions. These findings, however, address only those rule parts which generated suggestions or questions from commenters or which require additional editorial or technical changes beyond those originally proposed.

9530.6655 APPEALS. [AMENDMENTS WITHDRAWN.]

The amendments to part 9530.6655 originally proposed with the amendments to parts 9530.7000, 9530.7012, 9530.7015, 9530.7020, 9530.7022, and 9530.7024 have been withdrawn from this rulemaking action. Amendments to part 9530.6655 will be re-proposed with a notice of the department's intent to hold a public hearing on the amendments.

(6) **9530.7015 CLIENT ELIGIBILITY UNDER THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.**

At subpart 2, item A the department has made an editorial change to address a question generated by the changes proposed to subpart 2, item B. Item B as amended addresses how to determine a fee for a specific category of client, i.e., a client who is placed in a category III or IV program and who has neither a responsible relative nor a child for whom the client is responsible. This level of specificity in item B raised questions about how fee determinations are to be made for clients in category III or IV programs who

are custodial parents or have a responsible relative or both. **The answer is that all other clients except those described in item B, including program III and IV clients with characteristics different from those in item B, are billed in accordance with the sliding fee scale. The editorial change to item A is intended to make the clarification.**

Robert Olander, director of the Hennepin County Chemical Health Division, notes that the reference in subpart 2, item B to billing clients under part 9530.7020, subpart 4 is incorrect since the referenced subpart 4 is being repealed. **The reference is corrected by substituting 9530.7024 for the reference to part 9530.7020, subpart 4.**

9530.7020 COUNTY RESPONSIBILITY TO DETERMINE CLIENT ELIGIBILITY FOR CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND AND CLIENT'S ABILITY TO PAY FOR TREATMENT.

The reference in subpart 1, item E to subpart 3b is incorrect since subparts 3 and 4 are repealed. **The correct reference is to part 9530.7022 and the department has made the editorial change.**

George Steiner, director of community health and social services for Anoka County, shared his concern that the "forms prescribed by the department" referenced in subpart 1 would be forms modeled after a standard application now in use for income maintenance programs. The application exceeds 30 pages; Mr. Steiner believes requiring clients to complete it places an unreasonable burden on the client and the county.

Mr. Steiner suggested no modification to the rule as proposed and the department has made none. The forms in question are modeled after the 33-page application mentioned by Mr. Steiner, but all information not relevant to eligibility for the consolidated chemical dependency treatment fund has been dropped. The CCDTF eligibility form referenced as a prescribed form in the rule part is only a quarter of the size of the income maintenance application.

At subpart 1, item C, Steve Schneider, director of behavioral health for Sioux Valley Hospital in New Ulm, questions whether the required verification of a third party payment source's approval or refusal to pay for a client's treatment may be by verbal agreement rather than in writing. If verification need not be in writing, he says, the rule should clarify that this is the case. He also argues that accepting only written verification from an insurance company would greatly delay treatment admissions for clients waiting for the authorization.

The department agrees with Mr. Schneider and has proposed new language in item C to state explicitly that approvals or refusals may be obtained either verbally or in writing. Requiring local agencies to document verbal refusals and indicate steps that will be taken to grieve or appeal the refusal is not a substantial change; the requirement merely states explicitly how the agency is to fulfill the responsibility that local agencies already have under item C to require the client and the policyholder to follow all special conditions or procedures established by the third party payment source, including the appeal

and grievance procedure. Stating explicitly that the obligation continues to exist although approvals or refusals may now be accepted verbally is necessary to avoid confusion. Emphasizing responsibility for following up on a third-party payor's appeals and grievance procedures is reasonable because this emphasis helps ensure that the CCDTF does not pay for treatment when third-party payment is available.

Adding still more information to an already-long item made it reasonable to break up item C so the requirements are easier to follow and comply with. There are no changes in content or substance involved in the editorial changes.

In item E, the department has made an editorial change to replace subpart 3, 3b, now repealed, with part 9530.7022, the part where the fee scale is now found.

See discussion at part 9530.7024 for an explanation of why the reference to "local agency" in subpart 1a., item D is changed to "vendor."

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

Laws of Minnesota 1990, chapter 568, article 2, section 91 directed the commissioner, by emergency rulemaking, to amend rules 24 (parts 9530.6800 to 9530.7030) and 25 (parts 9530.6000 to 9530.6660) to contain costs and increase collections for the Consolidated Chemical Dependency Treatment Fund. As part of the cost containment, section 91 also specifically authorized the commissioner to use emergency rulemaking to change existing rule 24 so that vendors of transitional and extended care rehabilitation services are in some circumstances required to bill and collect from clients with fee obligations.

The resulting amendment, part 9530.7031 (Emergency) specifies how fees shall be collected once they are calculated under part 9530.7024. The effect of the emergency amendment is to shift responsibility for determining and collecting fees from certain clients from local agencies to vendors.

As Mr. Olander notes in his comments for Hennepin County, the permanent amendment to part 9530.7024 originally proposed here was drafted and published before the emergency amendments establishing part 9530.7031 (Emergency) became effective. Changes are therefore necessary to make part 9530.7024 as originally drafted and published consistent with part 9530.7031 (Emergency) which has been in effect since August, 1990.

Editorial changes are necessary in seven places to substitute "vendor" for "local agency." The seven changes: part 9530.7024, line 29; item A, line 31; item B, lines 5, 7, and 12; item D, line 25; and item E, line 32.

The changes to item C are necessary to reflect the shift in responsibility for fee determination to the vendor from the local agency. As originally written, item C required counties to determine what would be left for the CCDTF to pay after the fee owed by the client was paid. Now that the emergency rules have shifted responsibility for determining and collecting fees to vendors, the

information the vendor most needs to calculate is not what will be left for the CCDTF to pay after the client fee is subtracted but what is the amount of the client fee. The point at which uniform instructions are most required is the point at which the fee is calculated. The department believes these modifications will remedy the concern Mr. Olander raised about item C.

The changes from lines 25 to line 29 at item D are necessary to reflect the new participation of the vendor in the fee determination process and the continuing participation of the local agency and the state. It is reasonable to require the local agency to verify the accuracy of the billing information submitted by the vendor because the local agency needs to know, for auditing and accountability purposes, that the services being billed are services that the local agency has authorized. Substituting a reference to part 9530.7031 (Emergency) for the present final sentence of item D is necessary to bring these amendments into conformity with the already-effective emergency amendments.

CONCLUSIONS

I hereby conclude that:

1. All modifications made to the proposed rule are not substantial changes.
2. The rules as modified are necessary and reasonable. (8)
3. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.
4. The department has complied with all applicable provisions of law and rule in the promulgation of these rules.
5. If any finding or part of a finding above is properly characterized as a conclusion, it is adopted as a conclusion.
6. The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule parts identified as relating to the implementation of the Consolidated Chemical Dependency Treatment Fund are adopted this 19th day of November, 1990 pursuant to authority vested in me by Minnesota Statutes, section 254B.03, subdivision 5.

(9)

ANN WYNIA
Commissioner

Department of Human Services

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

Rules as Proposed

9530.6655 APPEALS.

Subpart 1. **Client's right to a second assessment.** A client who has been assessed under part 9530.6615, and who disagrees with the level of chemical dependency care proposed by the assessor, shall have the right to request a second chemical use assessment. The county or the prepaid health plan shall inform the client in writing of the right to request a second assessment at the time the client is assessed for a program placement. The county or the prepaid health plan shall also inform the client that the client's request must be in writing or on a form approved by the commissioner, and must be received by the county or the prepaid health plan within five working days of completion of the original assessment or before the client enters treatment, whichever occurs first.

The county or the prepaid health plan shall provide a second chemical use assessment by a different qualified assessor within five working days of receipt of a request for reassessment. If the client agrees with the second level of care determination, the county or the prepaid health plan shall place the client in accordance with parts 9530.6625 to 9530.6650 and the second assessment.

If, after receiving the second assessment, a client who is not an enrollee in a prepaid health plan still disagrees with the county's level of care determination, the client has a right to appeal under subpart 2. If, after receiving the second assessment, a client who is enrolled in a prepaid health plan still disagrees with the prepaid health plan's proposed level of care, the client has the right to an appeal under ~~part 9500.1463~~ Minnesota Statutes, section 256.045.

Approved by Revisor KTW

Subp. 2. **Client's right to appeal.** Clients who are denied an assessment under part 9530.6615, denied a second assessment under subpart 1, denied placement, or who disagree with the level of chemical dependency care proposed ~~shall~~ or length of placement have the right to a fair hearing under Minnesota Statutes, section 256.045. Notice of the right to appeal must be given ~~in accordance with~~ according to part 9550.0092.

Subp. 3. **Length of placement appeal, service continuation.** If an appeal on the length of placement is filed before the date the county proposes to terminate a placement, services shall continue until the client is discharged by the vendor or according to items A to D, whichever occurs first. Services must continue according to this subpart regardless of provisions of the governing host county contract.

A. Services shall be provided by an outpatient rehabilitation program for 52 hours of service past the proposed service termination date.

B. Services shall be provided by a category II primary residential rehabilitation program, whether in a hospital or freestanding facility, for 24 days past the proposed service termination date.

C. Services shall be provided in a category III extended care residential program for 55 days past the proposed service termination date.

D. Services shall be provided in a category IV halfway house residential facility for 54 days past the proposed service termination date.

Subp. 4. **Length of placement appeal criteria.** The recommendations of an appeals referee and the decision of the commissioner on length of placement appeals shall be based on the following criteria:

A. the usual and customary length of placement for the level of care received by the client;

B. whether the client has achieved the objectives stated in the client's individual treatment plan;

C. whether the client is making satisfactory progress

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toward achieving the objectives stated in the client's individual treatment plan; and

D. whether there is an aftercare plan that reasonably addresses the client's needs for continued service.

9530.7000 DEFINITIONS.

[For text of subps 1 to 12, see M.R.]

Subp. 13. **Income.** "Income" means the total amount of cash received by an individual from the following sources:

A. cash payments for wages or salaries;

B. cash receipts from nonfarm or farm self-employment, minus deductions allowed by the federal Internal Revenue Service for business or farm expenses;

C. regular cash payments from social security, railroad retirement, unemployment compensation, workers' union funds, veterans' benefits, Aid to Families with Dependent Children, Supplemental Security Income, General Assistance, training stipends, alimony, child support, and military family allotments;

D. cash payments from private pensions, government employee pensions, and regular insurance or annuity payments;

E. cash payments for dividends, interest, rents, or royalties; and

F. periodic cash receipts from estates or trusts.

Income does not include capital gains; any cash assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; tax refunds, gifts, lump sum inheritances, one time insurance payments, or compensation for injury; court-ordered child support or health insurance premium payments made by the client or responsible relative; and noncash benefits such as health insurance, food or rent received in lieu of wages, and noncash benefits from programs such as Medicare, Medical Assistance, Food Stamps, school lunches, and housing assistance. Annual income is the amount reported and verified by an individual as current income calculated prospectively to cover one year.

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[For text of subps 14 to 17, see M.R.]

Subp. 17a. **Policyholder.** "Policyholder" means a person who has a third party payment policy under which a third party payment source has an obligation to pay all or part of a client's treatment costs.

Subp. 18. **Rehabilitation program.** "Rehabilitation program" means a program of chemical dependency rehabilitation ~~provided in a residential facility as~~ defined in part 9530.4100, subpart 22, as a category II, III, or IV program licensed under parts 9530.4100 to 9530.4450 and Minnesota Statutes, ~~section 245.782, subdivision 6~~ chapter 245A.

Subp. 19. **Responsible relative.** "Responsible relative" means a person who is a member of the client's household and is a client's spouse ~~and~~ or the parent of a minor child who is a client.

[For text of subp 20, see M.R.]

Subp. 21. **Vendor.** "Vendor" means a licensed provider of chemical dependency treatment services ~~who~~ that meets the criteria established in Minnesota Statutes, section 254B.05, and that has applied according to part 9505.0195 to participate as a provider in the medical assistance program.

9530.7012 VENDOR AGREEMENTS.

When a local agency enters into an agreement with a vendor of chemical dependency treatment services under parts 9550.0010 to 9550.0092, the agreement must distinguish client per unit room and board costs from per unit rehabilitation services costs.

For purposes of this part, "rehabilitation services costs" are costs, including related administrative costs, of services that meet the criteria in items A to C:

A. The services are provided within a category II, III, or IV rehabilitation program as those categories are defined in part 9530.4100, subpart 22.

B. The services meet the definition of rehabilitation services in part 9530.4100, subpart 23.

C. The services meet the applicable service standards

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for categories II, III, and IV rehabilitation programs specified in parts 9530.4320, 9530.4330, 9530.4380, 9530.4390, and 9530.4400.

This part does not apply when a county contracts for chemical dependency services in an acute care inpatient hospital licensed by the Department of Health under chapter 4640.

9530.7015 CLIENT ELIGIBILITY UNDER THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.

[For text of subpart 1, see M.R.]

Subp. 2. **Client eligibility to have treatment initially paid for from the Consolidated Chemical Dependency Treatment Fund.** Except as provided under subpart 4, item D, a client who has an income between 60 and 115 percent of the state median income, as determined by the local agency under part 9530.7020, subpart 1, and who does not have an available third-party payment source, shall be eligible to have treatment paid for with Consolidated Chemical Dependency Treatment Funds, as follows:

[For text of item A, see M.R.]

B. If a client ~~with~~ who has no responsible relatives and who is not the custodial parent of a minor child is placed in a ~~halfway-house~~ category III or IV program, the client shall be billed under part 9530.7020, subpart 4, if the client's countable income is less than the sum of the negotiated rate plus the clothing and personal needs allowance and the earned income disregard allowed under Minnesota Statutes, section 256D.06, subdivisions 1 and 1b.

[For text of subps 3 and 4, see M.R.]

9530.7020 COUNTY RESPONSIBILITY TO DETERMINE CLIENT ELIGIBILITY FOR CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUNDS AND CLIENT'S ABILITY TO PAY FOR TREATMENT.

Subpart 1. **Local agency duty to determine client eligibility and ability to pay.** The local agency shall determine a client's eligibility for consolidated chemical dependency treatment funds and the client's or a responsible

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relative's ability to pay a fee at the time the client seeks treatment and is assessed under parts 9530.6600 to 9530.6655. Client eligibility and the ability to pay a fee must be determined using forms prescribed by the department. To determine a client's eligibility, the local agency must determine the client's income, the size of the client's ~~family~~ household, the availability of a third party payment source, and a responsible relative's ability to pay for the client's chemical dependency treatment, as specified in items A to ~~F~~ E:

[For text of item A, see M.R.]

B. The local agency must determine the client's ~~family~~ household size according to subitems (1), (2), and (3). ~~A client's family size shall include the client, the client's spouse, and the number of dependents claimed by the client or the client's spouse on his or her individual federal income tax return. If the client is a minor child, the family size shall include the client, the client's parents, and the client's siblings who are claimed as dependents on the client's parent's individual federal income tax return.~~

(1) If the client is a minor child, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's birth or adoptive parents; and

(c) the client's siblings who are minors.

(2) If the client is an adult, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's spouse;

(c) the client's minor children; and

(d) the client's spouse's minor children.

(3) For purposes of this item, household size includes a person listed in subitems (1) and (2) who is in out-of-home placement if a person listed in subitem (1) or (2) is contributing to the cost of care of the person in out-of-home

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placement.

C. The local agency must determine the availability of a third party payment source, including the availability of total payment, partial payment, amount of copayment, and any special conditions or procedures the third party payor requires clients and policyholders to follow. The local agency shall require the client and policyholder to follow all special conditions or procedures established by the third party payment source, including the third party payment source's appeal and grievance procedure, and shall require the client and policyholder to assign to the department his or her rights and the rights of minor children to benefits or services provided to the client. The local agency shall require the ~~client~~ policyholder to provide verification of the client's third party payment source's approval or refusal to pay for chemical dependency treatment services before the local agency places the client. If the client or ~~responsible relative~~ policyholder is unable to provide verification of the third party payment source's approval or refusal, the local agency must assist the client and policyholder to obtain the verification. If the client or ~~responsible relative~~ policyholder, with the assistance of the local agency, is still unable to obtain verification from the ~~client's~~ third party payment source, the local agency shall place the client.

[For text of item D, see M.R.]

E. The local agency shall apply the information on the client's and responsible relative's income and ~~family~~ household size to the sliding fee scale established in subpart ~~3~~ 3b, and determine the ~~monthly payment amount and the total obligation~~ fee for which the client or responsible relative is liable. The local agency shall record this information on a form supplied by the ~~commissioner~~ department, and send the form to the department.

Subp. 1a. **Redetermination of client eligibility and ability to pay a fee.** ~~P.~~ The local agency shall reassess a client's eligibility, redetermine the client's and responsible

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relative's ability to pay for chemical dependency treatment services, and redetermine the client's and responsible relative's ~~total obligation and monthly payment amount~~ fee as specified in ~~subitems (1) to (4)~~ items A to E. For purposes of this ~~item~~ subpart, placement of a client into more than one chemical dependency treatment program in less than ten working days, or placement of a client into a chemical dependency treatment program that is structured to provide rehabilitation services followed by outpatient chemical dependency treatment services shall be treated as a single placement.

A. Except for a client whose fee is determined under part 9530.7024, the local agency shall redetermine a client's eligibility for consolidated chemical dependency treatment funds and the client's and responsible relative's ability and obligation to pay a fee for treatment services every six months after the initial eligibility determination if the client remains in the same placement.

~~(1)~~ B. The local agency shall reassess a client's eligibility, redetermine the client's and responsible relative's ability to pay for chemical dependency treatment services, and redetermine the client's and responsible relative's ~~total obligation and monthly payment amount~~ fee each time a client is placed for chemical dependency treatment services. The ~~total obligation~~ fee for a second or subsequent placement shall be added to any unpaid fee obligation of the client or responsible relative~~, and the monthly~~. Payments for a second or subsequent placement shall begin in the month following the last monthly billing from the previous fee obligation.

~~(2)~~ C. When two or more clients, for whom another client or responsible relative is financially responsible, are placed for chemical dependency treatment services, the local agency shall add the total fee obligation for the second or subsequent client to the unpaid fee obligation of the client or responsible relative~~, and~~. The monthly payments for the second or subsequent client shall begin in the month following the last monthly billing from the previous fee obligation.

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~~(3)~~ D. If a client ~~with~~ who has no responsible relatives and who is not the custodial parent of a minor child is placed in a ~~halfway-house~~ category III or IV rehabilitation program licensed under parts 9530.4100 to 9530.4450, the client's obligation to make ~~monthly~~ fee payments for a previous placement shall be suspended~~,~~ and the client's ~~monthly~~ fee obligation while in the ~~halfway-house~~ program shall be determined by the local agency ~~in-accordance-with-subpart 4~~ according to part 9530.7024. The client's obligation to ~~resume-making-monthly~~ make payments on the fee obligation for a previous placement shall resume 30 days after the client is discharged from the ~~halfway-house~~ program.

~~(4)~~ E. If a client ~~with~~ who has a responsible relative or who is the custodial parent of a minor child is placed in a ~~halfway-house~~ category III or IV rehabilitation program licensed under parts 9530.4100 to 9530.4450, the local agency shall reassess the client's and responsible relative's ability to pay for chemical dependency treatment services ~~shall be-reassessed,-the-local-agency-shall~~ and redetermine the client's and responsible relative's ~~total~~ fee obligation ~~and monthly-payment-amount,-and~~. The client and the responsible relative must continue to make monthly payments ~~in-accordance with-subitem-(1)~~ according to item B.

Subp. 2. **Client ~~and~~, responsible relative, and policyholder obligation to cooperate.** A client ~~and~~, responsible relative, and policyholder shall ~~cooperate-with-the-local agency,-shall~~ provide income or wage verification, ~~family~~ household size verification, information on any special procedures required by the client's or ~~responsible-relative's~~ policyholder's third party payment source, and shall make an assignment of third party payment rights under subpart 1, item C. If a client ~~or~~, responsible relative, or policyholder does not ~~cooperate~~ comply with the provisions of this subpart, the client shall be deemed to be ineligible to have Consolidated Chemical Dependency Treatment Funds pay for his or her chemical dependency treatment, and the client and responsible relative

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shall be obligated to pay for the full cost of chemical dependency treatment services provided to the client.

Subp. 3. and 4. [See Repealer.]

9530.7022 PAYMENTS BY A CLIENT OR RESPONSIBLE RELATIVE; FEE SCHEDULE.

Subpart 1. **Payments by a client or responsible relative.** The fee to be paid by a client or responsible relative for chemical dependency treatment shall be determined according to this subpart and the fee schedule specified in subpart 2, and shall be redetermined according to part 9530.7020, subpart 1a.

A. A client or responsible relative whose household income falls between zero and 60 percent of the annual state median income, as defined in subpart 2, shall pay no fee.

B. A client or responsible relative whose household income falls between 60 and 115 percent of the annual state median income, as defined in subpart 2, must pay a fee to the department toward the cost of the client's chemical dependency treatment. The total amount a client or responsible relative is obligated to pay shall not exceed the total cost of the client's chemical dependency treatment services for a treatment placement, including room and board costs.

C. A client or responsible relative whose household income is at or above 115 percent of the annual state median income is not eligible for consolidated chemical dependency fund subsidy of treatment costs, and is obligated to pay for the full cost of treatment.

Subp. 2. **Fee schedule.** The department shall develop a fee schedule and adjust it annually based on the most recent annual state median income for a four-person family published in the Federal Register by the United States Department of Health and Human Services for the current federal fiscal year.

The department shall publish the adjustments annually in the State Register on the last Monday in June.

The fee schedule shall have annual and monthly income matrixes based on household sizes ranging from one to ten

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persons. The annual and monthly income matrixes must begin at 60 percent of the current annual state median income and end at 115 percent of the current annual state median income.

The fee schedule shall be divided into equal steps for each $900 increase in income between 60 percent and 115 percent of the current annual state median income. The fee is $60 for the first step above 60 percent of the state median income for each household size matrix. The fee for each subsequent income step can be calculated by totalling items A, B, and C and multiplying the total by 104 percent to adjust for inflation:

A. the amount of the fee for the previous step;

B. $30; and

C. 12 times the number of steps that precede the step for which the fee is being calculated.

Copies of the current fee schedule may be obtained by contacting the Minnesota Department of Human Services, Chemical Dependency Program Division, 444 Lafayette Road, Saint Paul, MN 55155-3823.

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

When a client who has no responsible relatives and who is not the custodial parent of a minor child is placed in a category III or IV program licensed under parts 9530.4100 to 9530.4450, the local agency shall determine the client's countable income in accordance with parts 9500.1200 to 9500.1318.

A. The local agency shall subtract the amount established as the clothing and personal needs allowance for medical assistance recipients under Minnesota Statutes, section 256B.35, subdivision 1, and the amount established as an additional earned income disregard under Minnesota Statutes, section 256D.06, subdivision 1b, from the client's countable income, whether the client's income is earned or unearned.

B. If the client is regularly contributing to the financial support of the client's natural or adopted minor child or children, the local agency shall verify the support payment and subtract the amount specified in a court order, if one

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exists. If no court order exists, the local agency shall determine the number of dependent children the client supports and subtract the amount paid, up to the amount specified for that number of children in the standards for aid to families with dependent children established in part 9500.2440, subpart 6. The local agency shall verify child support payments made through a bank statement, a canceled check, a receipt, or through the public agency responsible for child support enforcement. The method of verification must be recorded in the client's case record.

C. The local agency shall subtract the amount of income that remains from the negotiated rate for board and lodging expenses for the category III or IV program to determine how much of the negotiated rate shall be paid for with funds from the Consolidated Chemical Dependency Treatment Fund.

D. The local agency shall record this information on a form supplied by the department, and send the form to the department. The department shall bill the client monthly, according to the information supplied by the local agency.

E. The local agency shall make a monthly redetermination of the countable income of a client in a category III or IV program, and the amount the client owes toward the negotiated rate according to this part.

F. The client may make expenditures from income subtracted according to Minnesota Statutes, section 256D.06, subdivision 1b, on approval of the local agency.

REPEALER. Minnesota Rules, part 9530.7020, subparts 3 and 4 are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Implementation of 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. Harrignton
Assistant Revisor