

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: December 20, 1991

TO: STEPHANIE L. SCHWARTZ
Rules Division
Minnesota Department of Human Services
444 Lafayette Road

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

The above-referenced rule has been approved as to its legality by the Attorney General on December 19, 1991.

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

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

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

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

MJM:jj
Enclosures
cc: Deborah Huskins
William Brown, Chief Judge
MaryAnn Hruby

Department of Human Services

Adopted Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

Emergency Rules as Adopted

9535.1700 [Emergency] PURPOSE.

Parts 9535.1700 to 9535.1765 [Emergency], establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services.

Use of state grants must be in accordance with the service priorities under Minnesota Statutes, section 245.4886.

9535.1705 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1765 [Emergency] have the meanings given them in Minnesota Statutes, section 245.4871. For the purposes of parts 9535.1700 to 9535.1765 [Emergency], the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

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9535.1710 [Emergency] ELIGIBILITY TO RECEIVE GRANT.

Only county boards, including two or more county boards jointly, that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1765 [Emergency], are eligible to receive grants for children's community-based mental health services.

9535.1715 [Emergency] GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board, or two or more county boards jointly, applying for grants for children's community-based mental health services under part 9535.1710 [Emergency] shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed and on forms provided by the commissioner.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant for children's community-based mental health services, the chairs of all county boards participating in the joint application shall sign the grant application or submit copies of the resolutions of all the county boards.

9535.1720 [Emergency] USE OF GRANT FUNDS.

Subpart 1. **Family community support services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 70 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. Under Minnesota Statutes, section 245.4871, subdivision 17, family community support

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services include:

A. crisis assistance, including crisis placement and crisis respite care;

B. client outreach to each child with severe emotional disturbance and the child's family;

C. medication monitoring where necessary;

D. assistance in developing independent living skills;

E. assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

F. assistance with leisure and recreational activities;

G. assistance in locating respite care and special needs day care;

H. assistance in obtaining potential financial resources, including federal benefits. Federal benefits include supplemental security income, medical assistance, and Medicare;

I. day treatment;

J. professional home-based family treatment; and

K. foster care with therapeutic supports.

Subp. 2. **Mental health case management services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 30 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide mental health case management services.

Subp. 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 1, before any of the grant award is used to provide day treatment services.

Subp. 4. **Professional home-based family treatment services.**

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Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 1, before any of the grant award is used to provide professional home-based family treatment services; and

B. day treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 2, before any of the grant award is used to provide professional home-based family treatment services.

Subp. 5. **Foster care with therapeutic supports.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 1, before any of the grant award is used to provide foster care with therapeutic supports;

B. day treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 2, before any of the grant award is used to provide foster care with therapeutic supports; and

C. professional home-based family treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 3, before any of the grant award is used to provide foster care with therapeutic supports.

9535.1725 [Emergency] FUNDING CRITERIA.

The commissioner shall distribute grants for children's community-based mental health services to county boards whose grant applications meet the criteria in items A to D.

A. The grant application must be consistent with the

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children's mental health component of the county's community social services plan required by Minnesota Statutes, section 256E.09, that is approved by the commissioner.

B. The grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1765 [Emergency], and with Minnesota Statutes, sections 245.487 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715 [Emergency], the county board shall agree that:

(1) it considered the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council when developing the grant application for children's community-based mental health services;

(2) it will consider the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council if the grant application for children's community-based mental health services is amended;

(3) children's community-based mental health services will be provided in accordance with needs identified in the individual family community support plan;

(4) where available, the following will be used to pay for children's community-based mental health services instead of grant funds under parts 9535.1700 to 9535.1765 [Emergency]:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) the children's health plan, under Minnesota Statutes, section 256.936;

(c) private insurance;

(d) client fees; and

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(e) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1765 [Emergency], the commissioner shall specify the conditions the grant application must meet in order to receive the grant for children's community-based mental health services.

9535.1730 [Emergency] DISTRIBUTION FORMULA.

For the grant period beginning April 1, 1992, the commissioner shall use the formulas in items A to D to distribute grants for children's community-based mental health services to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1765 [Emergency].

A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1725 [Emergency], the greatest of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties and any previously allocated special project funds, plus a cost of living increase based on the legislative appropriation for that purpose; or

(2) at least $22,000 annually; or

(3) $2.25 per capita. Per capita must be based on county child population as determined by the most recent data of the state demographer.

B. The commissioner shall increase the amounts in item A, to the extent funds are available, to enable more children's community-based mental health services to be provided as required by Minnesota Statutes, sections 245.487 to 245.4888.

C. If the appropriations under this part are

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decreased, then the per county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

D. If the appropriations under this part remain the same as the appropriations in the preceding year, the per county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

9535.1735 [Emergency] FUNDING SPECIAL PROJECTS.

In addition to grants for children's community-based mental health services distributed under part 9535.1730 [Emergency], a county board may apply to the commissioner for grants appropriated for special projects to allow children with severe emotional disturbance to function and remain with their families in the community. Special projects must provide at least one of the children's community-based mental health services under part 9535.1705 [Emergency], subpart 2, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will allow children with severe emotional disturbance to function and remain with their families in the community.

9535.1740 [Emergency] BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget for children's community-based mental health services required.** When applying for a grant for children's community-based mental health services, the county board shall submit to the commissioner a budget covering all children's community-based mental health services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the sources in items A to G:

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A. grants under parts 9535.1700 to 9535.1765 [Emergency];

B. county funds;

C. medical assistance;

D. client fees;

E. private insurance and other third-party payors;

F. the children's health plan, under Minnesota Statutes, section 256.936; and

G. other county public agencies. Among the county public agencies that may provide funding are schools and colleges, health departments, and law enforcement organizations.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for children's community-based mental health services between a county board and a service provider, and all contracts for children's community-based mental health services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092 and 9535.1700 to 9535.1765 [Emergency].

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants for children's community-based mental health services, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1765 [Emergency].

9535.1745 [Emergency] PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes,

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section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1740 [Emergency], subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1765 [Emergency]. The commissioner shall make an initial advance in an amount sufficient to cover the first three months in which the services specified in the county board's approved grant application are to be provided. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the grant award or 100 percent of actual expenditures made according to a budget approved under parts 9535.1710 to 9535.1765 [Emergency].

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the children's community-based mental health services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services within the grant period in which the additional income is received; or

B. use the additional income in place of the county board funds committed to children's community-based mental health services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

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C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1750 [Emergency] TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for children's community-based mental health services allocated to the county board under Minnesota Statutes, section 245.4886, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1755 [Emergency] REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds for children's community-based mental health services to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1765 [Emergency], or for special projects under part 9535.1735 [Emergency]. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1760 [Emergency] BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the children's community-based mental health services funded under Minnesota Statutes, section 245.4886, based on an assessment of unmet needs of children with severe emotional disturbance and their families, and if all the requirements of Minnesota Statutes,

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sections 245.487 to 245.4888, are met.

9535.1765 [Emergency] RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for children's community-based mental health services under parts 9535.1700 to 9535.1765 [Emergency] can be easily compared to the county board's approved budget for those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include a copy of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Required records of services to children and their families.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner about children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency], so that the commissioner can determine the effectiveness of services in achieving the stated purpose as specified for:

A. family community support services under Minnesota Statutes, section 245.4884, subdivision 1;

B. case management services under Minnesota Statutes, section 245.4881;

C. day treatment under Minnesota Statutes, section 245.4884, subdivision 2;

D. professional home-based family treatment under Minnesota Statutes, section 245.4884, subdivision 3; and

E. foster care with therapeutic supports under Minnesota Statutes, section 245.4884, subdivision 4.

Among the data that must be collected are:

(1) information on client concerns;

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by Revisor _____

(2) information on client satisfaction with services received; and

(3) submission of periodic reports by the county in the manner prescribed on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall make available to the commissioner, upon request and for audit purposes, all budget, expenditure, and service records pertaining to the provision of children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency].

The commissioner shall be given access without prior notice to the physical plant and grounds where children's community-based mental health services are provided and to documents and information relevant to children's community-based mental health services. The commissioner shall be given access as often as the commissioner deems necessary.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense.

Subp. 4. **Retention.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for five years unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made.

Approved
by Revisor _____

12/19 91

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 20 1991

Joan Anderson Growe
Secretary of State

4:00 PM

PB

State of Minnesota
Department of Human Services
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155

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

FROM: Stephanie L. Schwartz, Rules Division

SUBJECT: Attorney General's Review of Emergency Rule

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

Official documents in this submitted material include:

1. A copy 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 an emergency rule as mailed.

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

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

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

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

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

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

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

11. The affidavit of mailing notice of submission of the rule to the attorney general, if applicable.

If you have any questions on this submitted material, please call me at 297-4302.

Emergency Rule CH 12/9/91
10 working days 12/9/91

RULE REVIEW CHECKLIST

File No. 1874
DATE RECEIVED 12-5-91
REVIEW DATE 12/16-91
DUE DATE 12/16/91
(DIS)APPROVED _____
WITHDRAWN _____

Docket No. 05 0009 0873
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 12/9/91
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 12/11/91 12/19/91
RETURNED TO AGENCY 12/11/91 12/24/91

✓ Rule as adopted (4 copies)

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

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
1991 MN Laws 292, Article 6 Statutory Authority section 26
N/A Small Business Statement
N/A Expenditure of public money statement
9-24-91 Signature fiscal Note

N/A Statement of Need and Reasonableness (if applicable)
_____ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Oct 10, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
October 14, 1991 Date 30/25 days before adoption

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

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Dec 5, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Deborah Haskins 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, 1991

TO: STEPHANIE L. SCHWARTZ
Rules Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul,

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

The above-referenced rule has been approved as to its legality by the Attorney General on December 16, 1991.

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

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

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

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

MJM:jj
Enclosures
cc: Deborah Huskins
William Brown, Chief Judge
MaryAnn Hruby

Authority Attached 1991 MN Laws, Chap. 292 Art 6
Attached Sec 26

Notice of Intent
missing SONAR - a statement that a free copy of the proposed emergency rule is available - but copy was attached to all notices by end of comment period Nov 8, 1991

Rules

180 deadline OK within 180 days
no effective date so August 1

Aug	30
Sep	30
Oct	31
Nov	30
Dec	4
	124

Office of the Revisor of Statutes

Administrative Rules

Robert P. Kittel
Assistant Deputy Revisor
296-0218



700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

November 20, 1991

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

RE: File No. 1918

Dear Ms. Schwartz:

Enclosed are four copies of your rule with the modifications you requested.

Please submit the rules to the Attorney General or the Office of Administrative Hearings, as appropriate.

If you have any questions or need further modifications, please call me.

Very truly yours,

Robert P. Kittel

Robert P. Kittel

Department of Human Services

Long Term Care Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Alternative Care Program Which Serves 180-Day Eligible Clients

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rules governing the Alternative Care Program pursuant to *Minnesota Statutes*, § 256B.0913, subdivisions 12 and 13. The proposed amendments will specify criteria for determining when services to a client must be terminated for failure to pay client premiums. The amendments will also establish procedures for submittal and approval of a biennial county plan for the administration of the alternative care plan and coordination with other planning processes for the older adult.

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:

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

Oral statements will be received during regular business hours over the telephone at (612) 297-4997 by Kathy McDonough 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.

Kathy McDonough
Rules and Bulletins Division

Department of Human Services

Mental Health Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Emergency Rules Governing Grants for the Community-Based Mental Health Program for Children with Severe Emotional Disturbance

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the emergency rule governing grants for the community-based mental health program for children with severe emotional disturbance. The adoption of the emergency rule is authorized by *Minnesota Statutes*, section 245.4886 (*Laws of Minnesota 1991*, Chapter 292, Article 6, Section 26), which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance, and their families. The statute also gives the commissioner authority to adopt emergency rules to govern program grants. *Minnesota Statutes*, section 245.4886 is one part of the Minnesota Comprehensive Children's Mental Health Act, *Minnesota Statutes*, sections 245.487 to 245.4888.

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: Stephanie L. Schwartz, Rules and Bulletins Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816. Oral statements will be received during regular business hours over the telephone at 297-4302 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*. 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 in the event that the rule is adopted.

Dated: 3 July 1991

Stephanie L. Schwartz
Rules and Bulletins Division

As in 10-14-91 Register

Department of Human Services

Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

Emergency Rules as Proposed (all new material)

9535.1700 [Emergency] PURPOSE.

Parts 9535.1700 to 9535.1765 [Emergency], establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services.

Use of state grants must be in accordance with the service priorities under Minnesota Statutes, section 245.4886.

9535.1705 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1765 [Emergency] have the meanings given them in Minnesota Statutes, section 245.4871. For the purposes of parts 9535.1700 to 9535.1765 [Emergency], the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

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9535.1710 [Emergency] ELIGIBILITY TO RECEIVE GRANT.

Only county boards, including two or more county boards jointly, that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1765 [Emergency], are eligible to receive grants for children's community-based mental health services.

9535.1715 [Emergency] GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board, or two or more county boards jointly, applying for grants for children's community-based mental health services under part 9535.1710 [Emergency] shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed and on forms provided by the commissioner.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant for children's community-based mental health services, the chairs of all county boards participating in the joint application shall sign the grant application or submit copies of the resolutions of all the county boards.

9535.1720 [Emergency] USE OF GRANT FUNDS.

Subpart 1. **Family community support services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 70 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. Under Minnesota Statutes, section 245.4871, subdivision 17, family community support

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services include:

A. crisis assistance, including crisis placement and crisis respite care;

B. client outreach to each child with severe emotional disturbance and the child's family;

C. medication monitoring where necessary;

D. assistance in developing independent living skills;

E. assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

F. assistance with leisure and recreational activities;

G. assistance in locating respite care and special needs day care;

H. assistance in obtaining potential financial resources, including federal benefits. Federal benefits include supplemental security income, medical assistance, and Medicare;

I. day treatment;

J. professional home-based family treatment; and

K. foster care with therapeutic supports.

Subp. 2. **Mental health case management services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 30 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide mental health case management services.

Subp. 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1.

Subp. 4. **Professional home-based family treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment

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services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1; and

B. day treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 2.

Subp. 5. **Foster care with therapeutic supports.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1;

B. day treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 2; and

C. professional home-based family treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 3.

9535.1725 [Emergency] FUNDING CRITERIA.

The commissioner shall distribute grants for children's community-based mental health services to county boards whose grant applications meet the criteria in items A to D.

A. The grant application must be consistent with the children's mental health component of the county's community social services plan required by Minnesota Statutes, section 256E.09, that is approved by the commissioner.

B. The grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1765 [Emergency], and with Minnesota Statutes, sections 245.487 to 245.4888.

D. In the grant application submitted to the

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commissioner according to part 9535.1715 [Emergency], the county board shall agree that:

(1) it considered the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council when developing the grant application for children's community-based mental health services;

(2) it will consider the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council if the grant application for children's community-based mental health services is amended;

(3) children's community-based mental health services will be provided in accordance with needs identified in the individual family community support plan;

(4) where available, the following will be used to pay for children's community-based mental health services instead of grant funds under parts 9535.1700 to 9535.1765 [Emergency]:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) the children's health plan, under Minnesota Statutes, section 256.936;

(c) private insurance;

(d) client fees; and

(e) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1765 [Emergency], the commissioner shall specify the conditions the grant application must meet in order to receive the grant for children's community-based mental health services.

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9535.1730 [Emergency] DISTRIBUTION FORMULA.

For the grant period beginning April 1, 1992, the commissioner shall use the formulas in items A to D to distribute grants for children's community-based mental health services to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1765 [Emergency].

A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1725 [Emergency], the greatest of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties and any previously allocated special project funds, plus a cost of living increase based on the legislative appropriation for that purpose; or

(2) at least $22,000 annually; or

(3) $2.25 per capita. Per capita must be based on county child population as determined by the most recent data of the state demographer.

B. The commissioner shall increase the amounts in item A, to the extent funds are available, to enable more children's community-based mental health services to be provided as required by Minnesota Statutes, sections 245.487 to 245.4888.

C. If the appropriations under this part are decreased, then the per county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

D. If the appropriations under this part remain the same as the appropriations in the preceding year, the per county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

9535.1735 [Emergency] FUNDING SPECIAL PROJECTS.

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In addition to grants for children's community-based mental health services distributed under part 9535.1730 [Emergency], a county board may apply to the commissioner for grants appropriated for special projects to allow children with severe emotional disturbance to function and remain with their families in the community. Special projects must provide at least one of the children's community-based mental health services under part 9535.1705 [Emergency], subpart 2, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will allow children with severe emotional disturbance to function and remain with their families in the community.

9535.1740 [Emergency] BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget for children's community-based mental health services required.** When applying for a grant for children's community-based mental health services, the county board shall submit to the commissioner a budget covering all children's community-based mental health services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the sources in items A to G:

A. grants under parts 9535.1700 to 9535.1765 [Emergency];

B. county funds;

C. medical assistance;

D. client fees;

E. private insurance and other third-party payors;

F. the children's health plan, under Minnesota Statutes, section 256.936; and

G. other county public agencies. Among the county public agencies that may provide funding are schools and

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colleges, health departments, and law enforcement organizations.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for children's community-based mental health services between a county board and a service provider, and all contracts for children's community-based mental health services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092 and 9535.1700 to 9535.1765 [Emergency].

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants for children's community-based mental health services, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1765 [Emergency].

9535.1745 [Emergency] PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1740 [Emergency], subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1765 [Emergency]. The commissioner shall make an initial advance in an amount sufficient to cover the first three months in which

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the services specified in the county board's approved grant application are to be provided. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the grant award or 100 percent of actual expenditures made according to a budget approved under parts 9535.1710 to 9535.1765 [Emergency].

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the children's community-based mental health services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services within the grant period in which the additional income is received; or

B. use the additional income in place of the county board funds committed to children's community-based mental health services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1750 [Emergency] TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for children's community-based mental health services allocated to

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the county board under Minnesota Statutes, section 245.4886, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1755 [Emergency] REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds for children's community-based mental health services to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1765 [Emergency], or for special projects under part 9535.1735 [Emergency]. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1760 [Emergency] BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the children's community-based mental health services funded under Minnesota Statutes, section 245.4886, based on an assessment of unmet needs of children with severe emotional disturbance and their families, and if all the requirements of Minnesota Statutes, sections 245.487 to 245.4888, are met.

9535.1765 [Emergency] RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for children's community-based mental health services under parts 9535.1700 to 9535.1765 [Emergency] can be easily compared to the county board's approved budget for

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those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include a copy of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Required records of services to children and their families.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner about children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency], so that the commissioner can determine the effectiveness of services in achieving the stated purpose as specified for:

A. family community support services under Minnesota Statutes, section 245.4884, subdivision 1;

B. case management services under Minnesota Statutes, section 245.4881;

C. day treatment under Minnesota Statutes, section 245.4884, subdivision 2;

D. professional home-based family treatment under Minnesota Statutes, section 245.4884, subdivision 3; and

E. foster care with therapeutic supports under Minnesota Statutes, section 245.4884, subdivision 4.

Among the data that must be collected are:

(1) information on client concerns;

(2) information on client satisfaction with services received; and

(3) submission of periodic reports by the county in the manner prescribed on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall make available to the commissioner, upon request and for audit purposes, all budget, expenditure, and service records pertaining to the provision of children's community-based mental health services funded under parts

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9535.1700 to 9535.1765 [Emergency].

The commissioner shall be given access without prior notice to the physical plant and grounds where children's community-based mental health services are provided and to documents and information relevant to children's community-based mental health services. The commissioner shall be given access as often as the commissioner deems necessary.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense.

Subp. 4. **Retention.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for five years unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9535

The attached rules are approved for publication in the State Register

Robert P. Kittel

Robert P. Kittel
Assistant Deputy Revisor

Department of Human Services

Adopted Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

Emergency Rules as Adopted

9535.1700 [Emergency] PURPOSE.

Parts 9535.1700 to 9535.1765 [Emergency], establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services.

Use of state grants must be in accordance with the service priorities under Minnesota Statutes, section 245.4886.

9535.1705 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1765 [Emergency] have the meanings given them in Minnesota Statutes, section 245.4871. For the purposes of parts 9535.1700 to 9535.1765 [Emergency], the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

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9535.1710 [Emergency] ELIGIBILITY TO RECEIVE GRANT.

Only county boards, including two or more county boards jointly, that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1765 [Emergency], are eligible to receive grants for children's community-based mental health services.

9535.1715 [Emergency] GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board, or two or more county boards jointly, applying for grants for children's community-based mental health services under part 9535.1710 [Emergency] shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed and on forms provided by the commissioner.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant for children's community-based mental health services, the chairs of all county boards participating in the joint application shall sign the grant application or submit copies of the resolutions of all the county boards.

9535.1720 [Emergency] USE OF GRANT FUNDS.

Subpart 1. **Family community support services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 70 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. Under Minnesota Statutes, section 245.4871, subdivision 17, family community support

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services include:

A. crisis assistance, including crisis placement and crisis respite care;

B. client outreach to each child with severe emotional disturbance and the child's family;

C. medication monitoring where necessary;

D. assistance in developing independent living skills;

E. assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

F. assistance with leisure and recreational activities;

G. assistance in locating respite care and special needs day care;

H. assistance in obtaining potential financial resources, including federal benefits. Federal benefits include supplemental security income, medical assistance, and Medicare;

I. day treatment;

J. professional home-based family treatment; and

K. foster care with therapeutic supports.

Subp. 2. **Mental health case management services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 30 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide mental health case management services.

Subp. 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 1, before any of the grant award is used to provide day treatment services.

Subp. 4. **Professional home-based family treatment services.**

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Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 1, before any of the grant award is used to provide professional home-based family treatment services; and

B. day treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 2, before any of the grant award is used to provide professional home-based family treatment services.

Subp. 5. **Foster care with therapeutic supports.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 1, before any of the grant award is used to provide foster care with therapeutic supports;

B. day treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 2, before any of the grant award is used to provide foster care with therapeutic supports; and

C. professional home-based family treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 3, before any of the grant award is used to provide foster care with therapeutic supports.

9535.1725 [Emergency] FUNDING CRITERIA.

The commissioner shall distribute grants for children's community-based mental health services to county boards whose grant applications meet the criteria in items A to D.

A. The grant application must be consistent with the

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children's mental health component of the county's community social services plan required by Minnesota Statutes, section 256E.09, that is approved by the commissioner.

B. The grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1765 [Emergency], and with Minnesota Statutes, sections 245.487 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715 [Emergency], the county board shall agree that:

(1) it considered the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council when developing the grant application for children's community-based mental health services;

(2) it will consider the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council if the grant application for children's community-based mental health services is amended;

(3) children's community-based mental health services will be provided in accordance with needs identified in the individual family community support plan;

(4) where available, the following will be used to pay for children's community-based mental health services instead of grant funds under parts 9535.1700 to 9535.1765 [Emergency]:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) the children's health plan, under Minnesota Statutes, section 256.936;

(c) private insurance;

(d) client fees; and

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(e) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1765 [Emergency], the commissioner shall specify the conditions the grant application must meet in order to receive the grant for children's community-based mental health services.

9535.1730 [Emergency] DISTRIBUTION FORMULA.

For the grant period beginning April 1, 1992, the commissioner shall use the formulas in items A to D to distribute grants for children's community-based mental health services to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1765 [Emergency].

A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1725 [Emergency], the greatest of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties and any previously allocated special project funds, plus a cost of living increase based on the legislative appropriation for that purpose; or

(2) at least $22,000 annually; or

(3) $2.25 per capita. Per capita must be based on county child population as determined by the most recent data of the state demographer.

B. The commissioner shall increase the amounts in item A, to the extent funds are available, to enable more children's community-based mental health services to be provided as required by Minnesota Statutes, sections 245.487 to 245.4888.

C. If the appropriations under this part are

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decreased, then the per county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

D. If the appropriations under this part remain the same as the appropriations in the preceding year, the per county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

9535.1735 [Emergency] FUNDING SPECIAL PROJECTS.

In addition to grants for children's community-based mental health services distributed under part 9535.1730 [Emergency], a county board may apply to the commissioner for grants appropriated for special projects to allow children with severe emotional disturbance to function and remain with their families in the community. Special projects must provide at least one of the children's community-based mental health services under part 9535.1705 [Emergency], subpart 2, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will allow children with severe emotional disturbance to function and remain with their families in the community.

9535.1740 [Emergency] BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget for children's community-based mental health services required.** When applying for a grant for children's community-based mental health services, the county board shall submit to the commissioner a budget covering all children's community-based mental health services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the sources in items A to G:

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A. grants under parts 9535.1700 to 9535.1765 [Emergency];

B. county funds;

C. medical assistance;

D. client fees;

E. private insurance and other third-party payors;

F. the children's health plan, under Minnesota Statutes, section 256.936; and

G. other county public agencies. Among the county public agencies that may provide funding are schools and colleges, health departments, and law enforcement organizations.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for children's community-based mental health services between a county board and a service provider, and all contracts for children's community-based mental health services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092 and 9535.1700 to 9535.1765 [Emergency].

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants for children's community-based mental health services, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1765 [Emergency].

9535.1745 [Emergency] PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes,

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section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1740 [Emergency], subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1765 [Emergency]. The commissioner shall make an initial advance in an amount sufficient to cover the first three months in which the services specified in the county board's approved grant application are to be provided. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the grant award or 100 percent of actual expenditures made according to a budget approved under parts 9535.1710 to 9535.1765 [Emergency].

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the children's community-based mental health services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services within the grant period in which the additional income is received; or

B. use the additional income in place of the county board funds committed to children's community-based mental health services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

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C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1750 [Emergency] TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for children's community-based mental health services allocated to the county board under Minnesota Statutes, section 245.4886, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1755 [Emergency] REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds for children's community-based mental health services to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1765 [Emergency], or for special projects under part 9535.1735 [Emergency]. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1760 [Emergency] BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the children's community-based mental health services funded under Minnesota Statutes, section 245.4886, based on an assessment of unmet needs of children with severe emotional disturbance and their families, and if all the requirements of Minnesota Statutes,

Approved
by Revisor _____

sections 245.487 to 245.4888, are met.

9535.1765 [Emergency] RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for children's community-based mental health services under parts 9535.1700 to 9535.1765 [Emergency] can be easily compared to the county board's approved budget for those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include a copy of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Required records of services to children and their families.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner about children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency], so that the commissioner can determine the effectiveness of services in achieving the stated purpose as specified for:

A. family community support services under Minnesota Statutes, section 245.4884, subdivision 1;

B. case management services under Minnesota Statutes, section 245.4881;

C. day treatment under Minnesota Statutes, section 245.4884, subdivision 2;

D. professional home-based family treatment under Minnesota Statutes, section 245.4884, subdivision 3; and

E. foster care with therapeutic supports under Minnesota Statutes, section 245.4884, subdivision 4.

Among the data that must be collected are:

(1) information on client concerns;

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(2) information on client satisfaction with services received; and

(3) submission of periodic reports by the county in the manner prescribed on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall make available to the commissioner, upon request and for audit purposes, all budget, expenditure, and service records pertaining to the provision of children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency].

The commissioner shall be given access without prior notice to the physical plant and grounds where children's community-based mental health services are provided and to documents and information relevant to children's community-based mental health services. The commissioner shall be given access as often as the commissioner deems necessary.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense.

Subp. 4. **Retention.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for five years unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY
12/16 91
HUBERT H. HUMPHREY III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 17 1991

Joan Anderson Growe
Secretary of State

10:00 AM

PB

Department of Human Services

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

(1) Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 245.4886 (*Laws of Minnesota 1991*, chapter 292, article 6, section 26). The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

(2) All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. (3) Any comments must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4302.

(4) A copy of the proposed rule is attached to this notice.

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

(7) Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

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

(9) Adoption of these rules will 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.

Date: 9-24-91

Natalie Haas Steffen

NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE 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 is accurate, complete, and current as of this 10th day of October, 1991.

That on the 10th day of October, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt an Emergency Rule 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.

KATHY ANN McDONOUGH
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 16, 1992

Nancy L. Bishop

Subscribed and sworn to before me this 11th day of October, 1991.

Kathy Ann McDonough

Department of Human Services

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765

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A copy of the proposed rule is attached to this notice.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

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

Adoption of these rules will 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.

Date: 9-24-91

NATALIE HAAS STEFFEN
Commissioner

Department of Human Services

Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

Emergency Rules as Proposed (all new material)

9535.1700 [Emergency] PURPOSE.

Parts 9535.1700 to 9535.1765 [Emergency], establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services.

Use of state grants must be in accordance with the service priorities under Minnesota Statutes, section 245.4886.

9535.1705 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1765 [Emergency] have the meanings given them in Minnesota Statutes, section 245.4871. For the purposes of parts 9535.1700 to 9535.1765 [Emergency], the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

Approved by Revisor RPK

9535.1710 [Emergency] ELIGIBILITY TO RECEIVE GRANT.

Only county boards, including two or more county boards jointly, that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1765 [Emergency], are eligible to receive grants for children's community-based mental health services.

9535.1715 [Emergency] GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board, or two or more county boards jointly, applying for grants for children's community-based mental health services under part 9535.1710 [Emergency] shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed and on forms provided by the commissioner.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant for children's community-based mental health services, the chairs of all county boards participating in the joint application shall sign the grant application or submit copies of the resolutions of all the county boards.

9535.1720 [Emergency] USE OF GRANT FUNDS.

Subpart 1. **Family community support services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 70 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. Under Minnesota Statutes, section 245.4871, subdivision 17, family community support

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services include:

A. crisis assistance, including crisis placement and crisis respite care;

B. client outreach to each child with severe emotional disturbance and the child's family;

C. medication monitoring where necessary;

D. assistance in developing independent living skills;

E. assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

F. assistance with leisure and recreational activities;

G. assistance in locating respite care and special needs day care;

H. assistance in obtaining potential financial resources, including federal benefits. Federal benefits include supplemental security income, medical assistance, and Medicare;

I. day treatment;

J. professional home-based family treatment; and

K. foster care with therapeutic supports.

Subp. 2. **Mental health case management services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 30 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide mental health case management services.

Subp. 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1.

Subp. 4. **Professional home-based family treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment

Approved by Revisor _____

services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1; and

B. day treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 2.

Subp. 5. Foster care with therapeutic supports. Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1;

B. day treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 2; and

C. professional home-based family treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 3.

9535.1725 [Emergency] FUNDING CRITERIA.

The commissioner shall distribute grants for children's community-based mental health services to county boards whose grant applications meet the criteria in items A to D.

A. The grant application must be consistent with the children's mental health component of the county's community social services plan required by Minnesota Statutes, section 256E.09, that is approved by the commissioner.

B. The grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1765 [Emergency], and with Minnesota Statutes, sections 245.487 to 245.4888.

D. In the grant application submitted to the

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commissioner according to part 9535.1715 [Emergency], the county board shall agree that:

(1) it considered the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council when developing the grant application for children's community-based mental health services;

(2) it will consider the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council if the grant application for children's community-based mental health services is amended;

(3) children's community-based mental health services will be provided in accordance with needs identified in the individual family community support plan;

(4) where available, the following will be used to pay for children's community-based mental health services instead of grant funds under parts 9535.1700 to 9535.1765 [Emergency]:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) the children's health plan, under Minnesota Statutes, section 256.936;

(c) private insurance;

(d) client fees; and

(e) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1765 [Emergency], the commissioner shall specify the conditions the grant application must meet in order to receive the grant for children's community-based mental health services.

Approved by Revisor _____

9535.1730 [Emergency] DISTRIBUTION FORMULA.

For the grant period beginning April 1, 1992, the commissioner shall use the formulas in items A to D to distribute grants for children's community-based mental health services to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1765 [Emergency].

A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1725 [Emergency], the greatest of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties and any previously allocated special project funds, plus a cost of living increase based on the legislative appropriation for that purpose; or

(2) at least $22,000 annually; or

(3) $2.25 per capita. Per capita must be based on county child population as determined by the most recent data of the state demographer.

B. The commissioner shall increase the amounts in item A, to the extent funds are available, to enable more children's community-based mental health services to be provided as required by Minnesota Statutes, sections 245.487 to 245.4888.

C. If the appropriations under this part are decreased, then the per county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

D. If the appropriations under this part remain the same as the appropriations in the preceding year, the per county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

9535.1735 [Emergency] FUNDING SPECIAL PROJECTS.

Approved
by Revisor _____

In addition to grants for children's community-based mental health services distributed under part 9535.1730 [Emergency], a county board may apply to the commissioner for grants appropriated for special projects to allow children with severe emotional disturbance to function and remain with their families in the community. Special projects must provide at least one of the children's community-based mental health services under part 9535.1705 [Emergency], subpart 2, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will allow children with severe emotional disturbance to function and remain with their families in the community.

9535.1740 [Emergency] BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget for children's community-based mental health services required.** When applying for a grant for children's community-based mental health services, the county board shall submit to the commissioner a budget covering all children's community-based mental health services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the sources in items A to G:

A. grants under parts 9535.1700 to 9535.1765 [Emergency];

B. county funds;

C. medical assistance;

D. client fees;

E. private insurance and other third-party payors;

F. the children's health plan, under Minnesota Statutes, section 256.936; and

G. other county public agencies. Among the county public agencies that may provide funding are schools and

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colleges, health departments, and law enforcement organizations.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for children's community-based mental health services between a county board and a service provider, and all contracts for children's community-based mental health services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092 and 9535.1700 to 9535.1765 [Emergency].

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants for children's community-based mental health services, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1765 [Emergency].

9535.1745 [Emergency] PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1740 [Emergency], subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1765 [Emergency]. The commissioner shall make an initial advance in an amount sufficient to cover the first three months in which

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the services specified in the county board's approved grant application are to be provided. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the grant award or 100 percent of actual expenditures made according to a budget approved under parts 9535.1710 to 9535.1765 [Emergency].

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the children's community-based mental health services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services within the grant period in which the additional income is received; or

B. use the additional income in place of the county board funds committed to children's community-based mental health services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1750 [Emergency] TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for children's community-based mental health services allocated to

Approved by Revisor

the county board under Minnesota Statutes, section 245.4886, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1755 [Emergency] REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds for children's community-based mental health services to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1765 [Emergency], or for special projects under part 9535.1735 [Emergency]. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1760 [Emergency] BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the children's community-based mental health services funded under Minnesota Statutes, section 245.4886, based on an assessment of unmet needs of children with severe emotional disturbance and their families, and if all the requirements of Minnesota Statutes, sections 245.487 to 245.4888, are met.

9535.1765 [Emergency] RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for children's community-based mental health services under parts 9535.1700 to 9535.1765 [Emergency] can be easily compared to the county board's approved budget for

Approved by Revisor _____

those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include a copy of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Required records of services to children and their families.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner about children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency], so that the commissioner can determine the effectiveness of services in achieving the stated purpose as specified for:

A. family community support services under Minnesota Statutes, section 245.4884, subdivision 1;

B. case management services under Minnesota Statutes, section 245.4881;

C. day treatment under Minnesota Statutes, section 245.4884, subdivision 2;

D. professional home-based family treatment under Minnesota Statutes, section 245.4884, subdivision 3; and

E. foster care with therapeutic supports under Minnesota Statutes, section 245.4884, subdivision 4.

Among the data that must be collected are:

(1) information on client concerns;

(2) information on client satisfaction with services received; and

(3) submission of periodic reports by the county in the manner prescribed on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall make available to the commissioner, upon request and for audit purposes, all budget, expenditure, and service records pertaining to the provision of children's community-based mental health services funded under parts

Approved

9535.1700 to 9535.1765 [Emergency].

The commissioner shall be given access without prior notice to the physical plant and grounds where children's community-based mental health services are provided and to documents and information relevant to children's community-based mental health services. The commissioner shall be given access as often as the commissioner deems necessary.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense.

Subp. 4. **Retention.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for five years unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9535

The attached rules are approved for publication in the State Register

Robert P. Kittel

Robert P. Kittel
Assistant Deputy Revisor

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 10th day of October, 1991, 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
- Advisory Committee Members
- Chair, Community Mental Health Centers
- State Mental Health Advisory Council and Local Children's Advisory Councils

KATHY ANN McDONOUGH
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 16, 1992

Nancy L. Bishop

Subscribed and sworn to before me

this 11th day of October, 1991

Kathy Ann McDonough

Department of Human Services

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765

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All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4302.

A copy of the proposed rule is attached to this notice.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

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

Adoption of these rules will 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.

Date: 9-24-91

NATALIE HAAS STEFFEN
Commissioner

Department of Human Services

Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

Emergency Rules as Proposed (all new material)

9535.1700 [Emergency] PURPOSE.

Parts 9535.1700 to 9535.1765 [Emergency], establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services.

Use of state grants must be in accordance with the service priorities under Minnesota Statutes, section 245.4886.

9535.1705 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1765 [Emergency] have the meanings given them in Minnesota Statutes, section 245.4871. For the purposes of parts 9535.1700 to 9535.1765 [Emergency], the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

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9535.1710 [Emergency] ELIGIBILITY TO RECEIVE GRANT.

Only county boards, including two or more county boards jointly, that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1765 [Emergency], are eligible to receive grants for children's community-based mental health services.

9535.1715 [Emergency] GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board, or two or more county boards jointly, applying for grants for children's community-based mental health services under part 9535.1710 [Emergency] shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed and on forms provided by the commissioner.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant for children's community-based mental health services, the chairs of all county boards participating in the joint application shall sign the grant application or submit copies of the resolutions of all the county boards.

9535.1720 [Emergency] USE OF GRANT FUNDS.

Subpart 1. **Family community support services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 70 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. Under Minnesota Statutes, section 245.4871, subdivision 17, family community support

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services include:

A. crisis assistance, including crisis placement and crisis respite care;

B. client outreach to each child with severe emotional disturbance and the child's family;

C. medication monitoring where necessary;

D. assistance in developing independent living skills;

E. assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

F. assistance with leisure and recreational activities;

G. assistance in locating respite care and special needs day care;

H. assistance in obtaining potential financial resources, including federal benefits. Federal benefits include supplemental security income, medical assistance, and Medicare;

I. day treatment;

J. professional home-based family treatment; and

K. foster care with therapeutic supports.

Subp. 2. **Mental health case management services.** Unless the appropriation for Minnesota Statutes, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 30 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide mental health case management services.

Subp. 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1.

Subp. 4. **Professional home-based family treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment

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services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1; and

B. day treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 2.

Subp. 5. Foster care with therapeutic supports. Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under Minnesota Statutes, section 245.4884, subdivision 1;

B. day treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 2; and

C. professional home-based family treatment services are available as required under Minnesota Statutes, section 245.4884, subdivision 3.

9535.1725 [Emergency] FUNDING CRITERIA.

The commissioner shall distribute grants for children's community-based mental health services to county boards whose grant applications meet the criteria in items A to D.

A. The grant application must be consistent with the children's mental health component of the county's community social services plan required by Minnesota Statutes, section 256E.09, that is approved by the commissioner.

B. The grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1765 [Emergency], and with Minnesota Statutes, sections 245.487 to 245.4888.

D. In the grant application submitted to the

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commissioner according to part 9535.1715 [Emergency], the county board shall agree that:

(1) it considered the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council when developing the grant application for children's community-based mental health services;

(2) it will consider the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council if the grant application for children's community-based mental health services is amended;

(3) children's community-based mental health services will be provided in accordance with needs identified in the individual family community support plan;

(4) where available, the following will be used to pay for children's community-based mental health services instead of grant funds under parts 9535.1700 to 9535.1765 [Emergency]:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) the children's health plan, under Minnesota Statutes, section 256.936;

(c) private insurance;

(d) client fees; and

(e) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1765 [Emergency], the commissioner shall specify the conditions the grant application must meet in order to receive the grant for children's community-based mental health services.

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9535.1730 [Emergency] DISTRIBUTION FORMULA.

For the grant period beginning April 1, 1992, the commissioner shall use the formulas in items A to D to distribute grants for children's community-based mental health services to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1765 [Emergency].

A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1725 [Emergency], the greatest of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties and any previously allocated special project funds, plus a cost of living increase based on the legislative appropriation for that purpose; or

(2) at least $22,000 annually; or

(3) $2.25 per capita. Per capita must be based on county child population as determined by the most recent data of the state demographer.

B. The commissioner shall increase the amounts in item A, to the extent funds are available, to enable more children's community-based mental health services to be provided as required by Minnesota Statutes, sections 245.487 to 245.4888.

C. If the appropriations under this part are decreased, then the per county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

D. If the appropriations under this part remain the same as the appropriations in the preceding year, the per county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

9535.1735 [Emergency] FUNDING SPECIAL PROJECTS.

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In addition to grants for children's community-based mental health services distributed under part 9535.1730 [Emergency], a county board may apply to the commissioner for grants appropriated for special projects to allow children with severe emotional disturbance to function and remain with their families in the community. Special projects must provide at least one of the children's community-based mental health services under part 9535.1705 [Emergency], subpart 2, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will allow children with severe emotional disturbance to function and remain with their families in the community.

9535.1740 [Emergency] BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget for children's community-based mental health services required.** When applying for a grant for children's community-based mental health services, the county board shall submit to the commissioner a budget covering all children's community-based mental health services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the sources in items A to G:

A. grants under parts 9535.1700 to 9535.1765 [Emergency];

B. county funds;

C. medical assistance;

D. client fees;

E. private insurance and other third-party payors;

F. the children's health plan, under Minnesota Statutes, section 256.936; and

G. other county public agencies. Among the county public agencies that may provide funding are schools and

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colleges, health departments, and law enforcement organizations.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for children's community-based mental health services between a county board and a service provider, and all contracts for children's community-based mental health services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092 and 9535.1700 to 9535.1765 [Emergency].

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants for children's community-based mental health services, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1765 [Emergency].

9535.1745 [Emergency] PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1740 [Emergency], subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1765 [Emergency]. The commissioner shall make an initial advance in an amount sufficient to cover the first three months in which

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the services specified in the county board's approved grant application are to be provided. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the grant award or 100 percent of actual expenditures made according to a budget approved under parts 9535.1710 to 9535.1765 [Emergency].

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the children's community-based mental health services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services within the grant period in which the additional income is received; or

B. use the additional income in place of the county board funds committed to children's community-based mental health services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1750 [Emergency] TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for children's community-based mental health services allocated to

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the county board under Minnesota Statutes, section 245.4886, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1755 [Emergency] REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds for children's community-based mental health services to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1765 [Emergency], or for special projects under part 9535.1735 [Emergency]. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1760 [Emergency] BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the children's community-based mental health services funded under Minnesota Statutes, section 245.4886, based on an assessment of unmet needs of children with severe emotional disturbance and their families, and if all the requirements of Minnesota Statutes, sections 245.487 to 245.4888, are met.

9535.1765 [Emergency] RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for children's community-based mental health services under parts 9535.1700 to 9535.1765 [Emergency] can be easily compared to the county board's approved budget for

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those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include a copy of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Required records of services to children and their families.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner about children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency], so that the commissioner can determine the effectiveness of services in achieving the stated purpose as specified for:

A. family community support services under Minnesota Statutes, section 245.4884, subdivision 1;

B. case management services under Minnesota Statutes, section 245.4881;

C. day treatment under Minnesota Statutes, section 245.4884, subdivision 2;

D. professional home-based family treatment under Minnesota Statutes, section 245.4884, subdivision 3; and

E. foster care with therapeutic supports under Minnesota Statutes, section 245.4884, subdivision 4.

Among the data that must be collected are:

(1) information on client concerns;

(2) information on client satisfaction with services received; and

(3) submission of periodic reports by the county in the manner prescribed on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall make available to the commissioner, upon request and for audit purposes, all budget, expenditure, and service records pertaining to the provision of children's community-based mental health services funded under parts

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9535.1700 to 9535.1765 [Emergency].

The commissioner shall be given access without prior notice to the physical plant and grounds where children's community-based mental health services are provided and to documents and information relevant to children's community-based mental health services. The commissioner shall be given access as often as the commissioner deems necessary.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense.

Subp. 4. **Retention.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for five years unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9535

The attached rules are approved for publication in the State Register

Robert P. Kittel

Robert P. Kittel
Assistant Deputy Revisor

Subp. 3. **Limitation on payments for services.** Payment for case management services shall be limited according to items A ~~and~~ B to E.

A. Payment for case management services is limited to no more than six hours per client per month, exclusive of out-of-county travel, except under the conditions specified in item B. The payment may be for any combination of the services specified in subpart 2, except that payment for telephone contact between a case manager, the client, the client's legal representative, the client's family or primary caregiver, mental health providers, and other service providers, or other interested persons is limited to no more than two hours per client per month.

B. If the client is at risk of hospitalization, losing a job or place to live, or in danger of harming self or others because of the client's mental illness or emotional disturbance, the payment limitation on case management services to the client shall be ten hours per month, exclusive of out-of-county travel~~,~~ and the payment limitation on telephone contact in item A shall ~~apply to this item~~ be increased to three hours per client per month. In this instance, the case manager must document the factor or factors placing the client at risk.

C. A client's functional assessment by a case manager is eligible for medical assistance payment if the assessment does not duplicate a similar assessment of the client by the Division of Rehabilitation Services of the Minnesota Department of Jobs and Training.

D. When traveling with a client, a case manager may not bill for both a face-to-face session with the client and travel time concurrently.

E. Except as provided in part 9505.0324 [Emergency], proposed in Volume 16, Number 11, pages 989-991, October 14, 1991 (16 S.R. 988) payment for case management services to a client is limited to the services of one case manager per minute per client.

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

Subp. 5. **Charting~~,~~ and record keeping~~, and travel.~~** Time spent by the case manager in charting~~,~~ and record keeping~~, and traveling within the county of financial responsibility~~ is not eligible for separate medical assistance payment as a case management service.

Subp. 6. **Billing ~~by units.~~** A case management provider shall bill for medical assistance payment for eligible case management services provided to a recipient according to ~~units~~ the number of minutes of service provided~~, as defined in subpart 1,~~ and documented as required in subpart 4.

[For text of subps 7 to 10, see M.R.]

Department of Human Services

Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 245.4886 (*Laws of Minnesota 1991*, chapter 292, article 6, section 26). The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4302.

A copy of the proposed rule is attached to this notice.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

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

Adoption of these rules will 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.

Natalie Haas Steffen
Commissioner

Emergency Rules as Proposed (all new material)

9535.1700 [Emergency] PURPOSE.

Parts 9535.1700 to 9535.1765 [Emergency], establish standards for the receipt and distribution of state grants allocated under *Minnesota Statutes*, section 245.4886, to assist county boards in the delivery of children's community-based mental health services.

Use of state grants must be in accordance with the service priorities under *Minnesota Statutes*, section 245.4886.

9535.1705 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1765 [Emergency] have the meanings given them in *Minnesota Statutes*, section 245.4871. For the purposes of parts 9535.1700 to 9535.1765 [Emergency], the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in *Minnesota Statutes*, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under *Minnesota Statutes*, section 256E.06, federal block grants under *Minnesota Statutes*, section 256E.07, family preservation grants under *Minnesota Statutes*, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

9535.1710 [Emergency] ELIGIBILITY TO RECEIVE GRANT.

Only county boards, including two or more county boards jointly, that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1765 [Emergency], are eligible to receive grants for children's community-based mental health services.

9535.1715 [Emergency] GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board, or two or more county boards jointly, applying for grants for children's community-based mental health services under part 9535.1710 [Emergency] shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed and on forms provided by the commissioner.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant for children's community-based mental health services, the chairs of all county boards participating in the joint application shall sign the grant application or submit copies of the resolutions of all the county boards.

9535.1720 [Emergency] USE OF GRANT FUNDS.

Subpart 1. **Family community support services.** Unless the appropriation for *Minnesota Statutes*, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 70 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. Under *Minnesota Statutes*, section 245.4871, subdivision 17, family community support services include:

A. crisis assistance, including crisis placement and crisis respite care;

B. client outreach to each child with severe emotional disturbance and the child's family;

C. medication monitoring where necessary;

D. assistance in developing independent living skills;

E. assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

F. assistance with leisure and recreational activities;

G. assistance in locating respite care and special needs day care;

H. assistance in obtaining potential financial resources, including federal benefits. Federal benefits include supplemental security income, medical assistance, and Medicare;

I. day treatment;

J. professional home-based family treatment; and

K. foster care with therapeutic supports.

Subp. 2. **Mental health case management services.** Unless the appropriation for *Minnesota Statutes*, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 30 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide mental health case management services.

Subp. 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, are available as required under *Minnesota Statutes*, section 245.4884, subdivision 1.

Subp. 4. **Professional home-based family treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under *Minnesota Statutes*, section 245.4884, subdivision 1; and

B. day treatment services are available as required under *Minnesota Statutes*, section 245.4884, subdivision 2.

Subp. 5. **Foster care with therapeutic supports.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under *Minnesota Statutes*, section 245.4884, subdivision 1;

B. day treatment services are available as required under *Minnesota Statutes*, section 245.4884, subdivision 2; and

C. professional home-based family treatment services are available as required under *Minnesota Statutes*, section 245.4884, subdivision 3.

9535.1725 [Emergency] FUNDING CRITERIA.

The commissioner shall distribute grants for children's community-based mental health services to county boards whose grant applications meet the criteria in items A to D.

A. The grant application must be consistent with the children's mental health component of the county's community social services plan required by *Minnesota Statutes*, section 256E.09, that is approved by the commissioner.

B. The grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1765 [Emergency], and with *Minnesota Statutes*, sections 245.487 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715 [Emergency], the county board shall agree that:

(1) it considered the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council when developing the grant application for children's community-based mental health services;

(2) it will consider the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council if the grant application for children's community-based mental health services is amended;

(3) children's community-based mental health services will be provided in accordance with needs identified in the individual family community support plan;

(4) where available, the following will be used to pay for children's community-based mental health services instead of grant funds under parts 9535.1700 to 9535.1765 [Emergency]:

(a) medical assistance, under *Minnesota Statutes*, section 256B.0625;

(b) the children's health plan, under *Minnesota Statutes*, section 256.936;

(c) private insurance;

(d) client fees; and

(e) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1765 [Emergency], the commissioner shall specify the conditions the grant application must meet in order to receive the grant for children's community-based mental health services.

9535.1730 [Emergency] DISTRIBUTION FORMULA.

For the grant period beginning April 1, 1992, the commissioner shall use the formulas in items A to D to distribute grants for children's community-based mental health services to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1765 [Emergency].

A. Within the limits of the appropriations under *Minnesota Statutes*, section 245.4886, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1725 [Emergency], the greatest of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties and any previously allocated special project funds, plus a cost of living increase based on the legislative appropriation for that purpose; or

(2) at least $22,000 annually; or

(3) $2.25 per capita. Per capita must be based on county child population as determined by the most recent data of the state demographer.

B. The commissioner shall increase the amounts in item A, to the extent funds are available, to enable more children's community-based mental health services to be provided as required by *Minnesota Statutes*, sections 245.487 to 245.4888.

C. If the appropriations under this part are decreased, then the per county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

D. If the appropriations under this part remain the same as the appropriations in the preceding year, the per county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

9535.1735 [Emergency] FUNDING SPECIAL PROJECTS.

In addition to grants for children's community-based mental health services distributed under part 9535.1730 [Emergency], a county board may apply to the commissioner for grants appropriated for special projects to allow children with severe emotional disturbance to function and remain with their families in the community. Special projects must provide at least one of the children's community-based mental health services under part 9535.1705 [Emergency], subpart 2, unless the legislature enacts appropriations under *Minnesota Statutes*, section 245.4886, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will allow children with severe emotional disturbance to function and remain with their families in the community.

9535.1740 [Emergency] BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget for children's community-based mental health services required.** When applying for a grant for children's community-based mental health services, the county board shall submit to the commissioner a budget covering all children's community-based mental health services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the sources in items A to G:

A. grants under parts 9535.1700 to 9535.1765 [Emergency];

B. county funds;

C. medical assistance;

D. client fees;

E. private insurance and other third-party payors;

F. the children's health plan, under *Minnesota Statutes*, section 256.936; and

G. other county public agencies. Among the county public agencies that may provide funding are schools and colleges, health departments, and law enforcement organizations.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for children's community-based mental health services between a county board and a service provider, and all contracts for children's community-based mental health services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092 and 9535.1700 to 9535.1765 [Emergency].

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants for children's community-based mental health services, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1765 [Emergency].

9535.1745 [Emergency] PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under *Minnesota Statutes*, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1740 [Emergency], subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1765 [Emergency]. The commissioner shall make an initial advance in an amount sufficient to cover the first three months in which the services specified in the county board's approved grant application are to be provided. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the grant award or 100 percent of actual expenditures made according to a budget approved under parts 9535.1710 to 9535.1765 [Emergency].

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the children's community-based mental health services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services within the grant period in which the additional income is received; or

B. use the additional income in place of the county board funds committed to children's community-based mental health services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in *Minnesota Statutes*, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1750 [Emergency] TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for children's community-based mental health services allocated to the county board under *Minnesota Statutes*, section 245.4886, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to *Minnesota Statutes*, section 245.483.

9535.1755 [Emergency] REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds for children's community-based mental health services to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1765 [Emergency], or for special projects under part 9535.1735 [Emergency]. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1760 [Emergency] BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the children's mental health component of a county's community social services plan under *Minnesota Statutes*, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the children's community-based mental health services funded under *Minnesota Statutes*, section 245.4886, based on an assessment of unmet needs of children with

severe emotional disturbance and their families, and if all the requirements of *Minnesota Statutes*, sections 245.487 to 245.4888, are met.

9535.1765 [Emergency] RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for children's community-based mental health services under parts 9535.1700 to 9535.1765 [Emergency] can be easily compared to the county board's approved budget for those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include a copy of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Required records of services to children and their families.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner about children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency], so that the commissioner can determine the effectiveness of services in achieving the stated purpose as specified for:

A. family community support services under *Minnesota Statutes*, section 245.4884, subdivision 1;

B. case management services under *Minnesota Statutes*, section 245.4881;

C. day treatment under *Minnesota Statutes*, section 245.4884, subdivision 2;

D. professional home-based family treatment under *Minnesota Statutes*, section 245.4884, subdivision 3; and

E. foster care with therapeutic supports under *Minnesota Statutes*, section 245.4884, subdivision 4.

Among the data that must be collected are:

(1) information on client concerns;

(2) information on client satisfaction with services received; and

(3) submission of periodic reports by the county in the manner prescribed on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall make available to the commissioner, upon request and for audit purposes, all budget, expenditure, and service records pertaining to the provision of children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency].

The commissioner shall be given access without prior notice to the physical plant and grounds where children's community-based mental health services are provided and to documents and information relevant to children's community-based mental health services. The commissioner shall be given access as often as the commissioner deems necessary.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense.

Subp. 4. **Retention.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for five years unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made.

Department of Human Services

Proposed Emergency Amendments to Permanent Rules and Emergency Rules Relating to Professional Home-Based Mental Health Services

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, sections 245.484 (*Laws of Minnesota 1991*, chapter 292, article 6, section 10), 256B.04, subdivision 2 and 256B.0625, subdivision 14. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765 (Emergency)

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE

(1) Notice of the Commissioner's intent to adopt the above-entitled emergency rule was published in the State Register on October 14, 1991 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.30 on October 10, 1991.

(2) All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking. (4) No requests for notice of submission to the attorney general were received by the agency.

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

(3) Part 9535.1720 **USE OF GRANT FUNDS.**

Part 9535.1720 establishes how grant funds appropriated by the 1991 legislature will be used to provide community-based mental health services. This part is based on Minnesota Statutes, section 245.4886, subdivision 1 (Laws of Minnesota 1991, chapter 292, article 6, section 26), which states that community-based mental health services must be provided in a specific order of priority when they cannot otherwise be reimbursed through the state's Medical Assistance program. Subdivision 1 lists, in order of priority, five separate types of services: (1) family community support services including crisis placement and crisis respite care; (2) case management services; (3) day treatment services; (4) professional home-based family treatment; and (5) therapeutic support of foster care. Contrast this with Minnesota Statutes, section 245.4871,

subdivision 17, which defines family community support services as including day treatment, professional home-based family treatment and therapeutic support of foster care.

Minnesota Statutes, section 245.4886, subdivision 1 directs that beginning July 1, 1991 funds "must be used . . . to provide family community support services and case management services. Additional services shall be provided in the order of priority as identified in this subdivision." (emphasis added).

Based on this statute, proposed part 9535.1720 sets out, in five subparts (mirroring Minnesota Statutes, section 245.4886, subdivision 1), the required community-based mental health services. The proposed language also reflects legislative budgetary working papers which specify the amounts to be spent for family community support services vs. case management services. Based on the legislative appropriations, 70% of the grant funds appropriated are to be used for family community support services and 30% of the grant funds are to be used for case management services. Following Minnesota Statutes, section 245.4886, subdivision 1, day treatment services, professional home-based family treatment services and foster care with therapeutic supports may be provided, but only if all previous services are available.

Ms. Marlene Hill, Anoka County Family Community Support Services Coordinator, provided three comments regarding part 9535.1720.

1. Subpart 1, items B and C. Subpart 1 requires that 70% of each grant award must be used to provide family community support services and cites Minnesota Statutes, section 245.4871, subdivision 17 as the definition of family community support services. Items B and C are part of this statutory definition.

Ms. Hill suggests that the definition of family community support services be amended in item B to "client outreach to each identified child with severe emotional disturbance and the child's family." She also suggests that the definition be changed in item C to "if a child is on medication, ~~monitoring where necessary~~ then their medication needs to be monitored."

The Department declines to make the suggested changes. The definition is taken directly from Minnesota Statutes, section 245.4871, subdivision 17. Additionally, a committee member of the Department's Rule Advisory Committee has pointed out that the statutory definition of family community support services includes all the elements listed in proposed part 9535.1720, subpart 1, items A to K, while Minnesota Statutes, section 245.4886, subdivision 1 seems to imply that they are individual types of community-based mental health services. Because of this confusion, and because the Department believes legislative

intent was to make family community support services as broad a type of services as possible, it is necessary and reasonable that subpart 1 quotes state statute.

2. Subpart 2. Subpart 2 requires that 30% of each grant award must be used to provide case management services. Ms. Hill suggests that instead of requiring 30% of each grant award to be used to provide these services, "a suggested guideline" be used by counties.

The Department declines to make the suggested change. As pointed out on page 2, legislative budgetary working papers require that 70% of these funds be used to provide family community support services and 30% be used to provide case management services. Further, Laws of Minnesota 1991, chapter 292, article 1, section 18 states that "[A]ll appropriations in this article shall be allocated according to the working documents of the conferees." The appropriation for these funds is within the article referred to in section 18.

3. Subpart 4. Subpart 4 allows that part of the 70% of the grant award may be used to provide professional home-based family treatment services only if all the elements of family community support services specified in subpart 1, items A to H are available and if day treatment services (subpart 3) are available (note that in subpart 3, day treatment services may be provided only if family community support services (subpart 1, items A to H are available)).

Ms. Hill submits that the phrase "are available" will present problems for counties that may still be developing plans to provide family community support services (subpart 1, items A to H) and case management services, but already have professional home-based family treatment services in place (or, day treatment services or foster care with therapeutic supports). Ms. Hill suggests that the Department amend subpart 4 (and, by necessity, subparts 3 and 5) to allow counties demonstrating that family community support services (subpart 1, items A to H) will be available to provide professional home-based family treatment services (or day treatment or foster care with therapeutic supports). Ms. Hill's suggestion is well taken.

Therefore, subparts 3 to 5 are amended as follows:

Subp 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision

1 before any of the grant award is used to provide day treatment services.

Subp. 4. **Professional home-based family treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 1 before any of the grant award is used to provide professional home-based family treatment services; and

B. day treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 2 before any of the grant award is used to provide professional home-based family treatment services.

Subp. 5. **Foster care with therapeutic supports.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision before any of the grant award is used to provide foster care with therapeutic supports 1;

B. day treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 2 before any of the grant award is used to provide foster care with therapeutic supports; and

C. professional home-based family treatment services ~~are~~ will be available as required under Minnesota Statutes, section 245.4884, subdivision 3 before any of the grant award is used to provide foster care with therapeutic supports.

These amendments are not substantial changes because the language of Minnesota Statutes, section 245.4886, subdivision 2 (Laws of Minnesota 1991, chapter 292, article 6, section 26) allows the commissioner to "adopt emergency . . . rules to govern . . . allocation of grants . . . ." In order to follow the legislative directive to "establish a statewide program to assist counties in providing services to children with severe emotional disturbance . . . and their families," it is reasonable to allow counties flexibility in providing these services if the counties' mandate to make available family community support services is or will be met. The Department

does not anticipate county difficulty complying with these amendments.

Additionally, these amendments clarify the time from which to determine if a county can go on to provide the next service. For example, only if a county will make available family community support services can it provide day treatment services (subpart 3). And, only if a county will make available family community support services and day treatment services can it provide professional home-based family treatment services (subpart 4).

(5) NOW, THEREFORE, IT IS ORDERED that the rule identified as governing community-based mental health services for children with severe emotional disturbance and their families (as modified) is adopted this 5th day of DECEMBER, 1991, pursuant to authority vested in me by Minnesota Statutes, section 245.4886 (Laws of Minnesota 1991, chapter 292, article 6, section 26).

George J. Steffen

NATALIE HAAS STEFFEN
Commissioner

COUNTY OF ANOKA

HUMAN SERVICES DIVISION

COMMUNITY SOCIAL SERVICES &
MENTAL HEALTH DEPARTMENT

COURTHOUSE • 325 EAST MAIN STREET • ANOKA, MN 55303
612-422-7000 FAX: 612-422-6987

- Achieve 783-4909
- Adult Mental Health 422-7070
- Chemical Dependency 422-7070
- Developmental Disabilities 422-7175
- Family & Children's Services 422-7125
- Licensing-Day Care/Foster Care 422-7144
- Volunteer Services 422-7089

October 29, 1991

Stephanie L. Schwartz
Rules Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Mn 55155-3816

RE: Comments regarding Notice of Intent to Adopt an Emergency Rule Governing Grants for Community-Based Mental health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765.

Dear Ms. Schwartz:

I am writing to comment on the above rule as follows:

.1720, Subp. 1

Now reads: B. Client outreach to each child with severe emotional disturbance and the child's family

Comment: Change to read each identified child

Now reads: C. Medication monitoring when necessary (where)

Comment: Medication monitoring is always necessary when and if children are on medication. Change wording to read: If a child is on medication then their medication needs to be monitored.

.1720, Subp. 2 Mental Health Case Management

Now reads: 30% of each grant award for children's community-based mental health services **must** be used by the county board or boards to provide mental health case management services.

Comment: Instead of **must** change wording to read: "a suggested guideline to be used"

TO: Stephanie L. Schwartz
RE: Comments regarding Notice of Intent to Adopt an Emergency Rule Governing Grants for Community-Based Mental health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765.

•1720, Subp. 4 Professional home-based family treatment services.

Now reads: Part of the 70 percent of the grant award specified in Subpart 1 may be used to provide professional home-based family treatment services **only** if a county board demonstrates to the commissioner that:

A. All family community support services are available and
B. Day treatment services are available

Comments: Should add the comment or are in the process of finalization or implementation of services.

Thanks for the opportunity to comment.

Sincerely,

Marlene Hill

Marlene Hill
Anoka County Family Community Support Services Coordinator
Anoka County Social Services and Mental Health
325 East Main - Jackson Building
Anoka, MN 55303

MH/rko

cc: Dianna Skeen
Bob York

In the Matter of the Adoption of the Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.1700 to 9535.1765 (Emergency)

DECLARATION OF COUNSEL

I, Deborah L. Huskins, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is H388.0873

Deborah L. Huskins
Special Assistant
Attorney General

Dated: 11/25/91

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Amendments
to Department of Human Services
Emergency Rules Governing Grants for
Community-Based Mental Health
Services for Children with Severe
Emotional Disturbance and Their
Families, Minnesota Rules, parts
9535.1700 to 9535.1765

FISCAL NOTE

I. **NET FISCAL IMPACT OF RULE***

	Year 1	Year 2
LOCAL	-0-	-0-
STATE	-0-	-0-

*See Part III for Methodology and Summary Explanation of Costs

II. **BACKGROUND INFORMATION ON RULE AND FUNDING SOURCES**

A. Purpose of Amendments

This proposed emergency rule, known informally as Rule 78, establishes standards for the receipt and distribution of state grants for community-based mental health services for children with severe emotional disturbance and their families.

The purpose of the proposed emergency rule is to establish (1) eligibility to receive grants; (2) funding criteria for grants; (3) criteria for grant applications; (4) criteria for use of grant funds; (5) criteria for grant distributions; (6) budget requirements for counties; (7) county fiscal reporting requirements; (8) that counties will receive grant funds quarterly; (9) criteria for county disposal of revenues attributable to services specified in the grant application exceeding the amount of the budget; (10) criteria for termination and repayment of funds; (11) that the commissioner may reallocate returned or unused funds; (12) criteria for counties to amend budgets; (13) opportunities for counties to apply for grants for special projects; and (14) criteria for maintenance and retention of required records and the commissioner's access to these records.

B. Statutory Authority

Minnesota Statutes, §245.4873, subdivision 5 requires the commissioner to supervise the "development and coordination" of locally available children's

mental health services by county boards, and requires the commissioner to review local mental health service proposals and provide technical assistance to counties "in developing and maintaining locally available and coordinated children's mental health services."

Specifically, Minnesota Statutes, §245.4886, subdivision 1 (Laws of Minnesota 1991, chapter 292, article 6, section 26) requires the commissioner to "establish a statewide program to assist counties in providing services to children with severe emotional disturbance . . . and their families." It also requires the commissioner to "make grants to counties to establish, operate, or contract with private providers" to provide specific children's community-based mental health services. Minnesota Statutes, §245.4886, subdivision 2 authorizes the commissioner to "adopt **emergency** and permanent rules to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients." (emphasis added)

C. Reason for Adoption of Emergency Rule

This emergency rule is necessary to comply with Minnesota Statutes, §245.4886.

By way of background, the first grants (for pilot projects) for one type of children's community-based mental health services, family community support services, were disbursed to counties in April of 1991. This was done without promulgation of a department rule. However, as noted above, the 1991 legislature increased the types of children's community-based mental health services that can be funded through state grants. Minnesota Statutes, §245.4886, subdivision 2 allows the Department to continue to administer these funds without a rule until the end of FY 1992 (June 30, 1992).

Because RFP's will be sent to counties approximately the beginning of 1992 and because grants for children's community-based mental health services will be awarded in April of 1992 for a 15 month period, the department is promulgating an emergency rule with a proposed effective date of December 27, 1991. The Department anticipates promulgating a permanent rule by December 22, 1992.

D. Background and Funding Source

The proposed emergency rule is new. The funding source is state appropriations. In addition to the current base funding for <u>family community support services</u> (one type of children's community-based mental health services) of $1,200,000 for FY '92 and $1,200,000 for FY '93, the 1991 legislature appropriated $290,000 for FY '92 (for a total of $1,490,000 for FY '92) and $1,160,000 for FY '93 (for a total of $1,360,000 for FY '93). For <u>case management services</u> (another type of children's community-based mental health services), the 1991 legislature appropriated $250,000 for FY '92 and $1,000,000 for FY '93.

Minnesota Statutes, §245.4886, subdivision 1, clause (1) establishes that family community support services has the first priority of the listed children's community-based mental health services to receive grants, and funding "appropriated" at the beginning of FY 1992 (July 1, 1991) "must be used by county boards to provide family community support services...." This rule provides that, beginning April 1, 1992, 70% of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. This percentage equates to the dollar amounts in the legislative budget working papers, required by Laws of Minnesota 1991, chapter 292, article 1, section 18, providing that all "appropriations in this article shall be allocated according to the working documents of the conferees."

Similarly, Minnesota Statutes, §245.4886, subdivision 1, clause (2) establishes that case management services has the second highest priority of the listed children's community-based mental health services to receive grants, and funding "appropriated" at the beginning of FY 1992 (July 1, 1991) "must be used by county boards to provide ... case management services." This rule provides that, beginning April 1, 1992, 30% of each grant award for children's community-based mental health services must be used by the county board or boards to provide case management services. This percentage equates to the dollar amounts in the legislative budget working papers, required by Laws of Minnesota 1991, chapter 292, article 1, section 18, discussed above.

III. METHODOLOGY AND EXPLANATION OF COSTS

The Department projects that this rule will have no fiscal impact on the state or the counties.

This rule governs grants that will be distributed to counties, and simply supplies a mechanism to provide counties with the legislative appropriation for children's community-based mental health services. Because pilot project grants for children's community-based mental health services were distributed to counties beginning in April of 1991 (without a rule), the mechanism to provide counties with the appropriation for children's community-based mental health services is already in place, both at the Department level and at the county level.

Date: 9-13-91

NATALIE HAAS STEFFEN
Commissioner