

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MSC
12/13/91

RULE REVIEW CHECKLIST

File No. 1877
DATE RECEIVED 12-9-91
REVIEW DATE 12-18-91
DUE DATE 12-23-91
(DIS)APPROVED 12.23.91
WITHDRAWN _____

Docket No. 05 0009 0887
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 12-13-91
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 12-24-91
RETURNED TO AGENCY 12-26-91

✓ 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
246.51 subd 2 Statutory Authority
no statement Small Business Statement
_____ Expenditure of public money statement
July 31, 1991 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
August 14, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
August 19, 1991 Date 30/25 days before adoption

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

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Mailed Nov 21, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
David Iverson 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 24, 1991

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

FROM: MARTHA J. CASSERLY MJC
Special Assistant
Attorney General
by cbe

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Reimbursement for Cost of Care of Clients in State Facilities

The above-referenced rule has been approved as to its legality by the Attorney General on December 23, 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.

MJC:jj

cc: David P. Iverson
William Brown, Chief Judge
MaryAnn Hruby

Department of Human Services

Adopted Permanent Rules Relating to Reimbursement for Cost of Care of Clients in State Facilities

Rules as Adopted

9515.1200 DEFINITIONS.

[For text of subps 1 to 3, see M.R.]

Subp. 3a. **Client.** "Client" means a person receiving services at a state facility, whether or not those services require occupancy of a bed overnight. Client includes:

A. an inpatient;

B. a resident patient;

C. an outpatient;

D. a day patient;

E. a patient; and

F. a resident.

Subp. 4. **Cost of care.** "Cost of care" means the cost of providing services to state facility clients, calculated in accordance with Minnesota Statutes, section 246.50, subdivision 5.

[For text of subps 5 and 6, see M.R.]

Subp. 6a. **Financial file.** "Financial file" means financial data collected for the purpose of determining ability of the client or the responsible relative to pay the client's cost of care.

[For text of subp 7, see M.R.]

Subp. 8. **Homestead.** "Homestead" means the house owned and occupied by the client as his or her dwelling place, together with the land upon which it is situated as limited by Minnesota Statutes, section 510.02.

Subp. 10. [See repealer.]

[For text of subps 11 and 12, see M.R.]

Subp. 13. to 15. [See repealer.]

Subp. 16. **Person.** "Person" means a client, responsible

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relative, conservator, legal guardian, representative payee, trustee, county financial or social worker, case manager, or attorney.

[For text of subps 17 to 19, see M.R.]

Subp. 19a. [See repealer.]

Subp. 20. **Resource.** "Resource" means any property or benefit that is available to pay for the cost of care of the client.

[For text of subp 21, see M.R.]

Subp. 21a. **Services.** "Services" means all services in a state facility. The following are services:

A. observation;

B. care;

C. treatment;

D. diagnostic services;

E. therapeutic services;

F. counseling services treatment; and

G. other related assistance.

Subp. 22. **State facility.** "State facility" means a regional treatment center, state nursing home, or other facility, as defined by Minnesota Statutes, section 246.50, subdivision 3.

9515.1300 TIME OF DETERMINATION.

Ability to pay the cost of care shall be determined when the client is admitted, when there is a change in the person's financial status, when a client, responsible relative, guardian, conservator, or representative payee reports a change in the financial status used in determining ability to pay, when the client has been hospitalized for 120 days or more, when the client is being discharged, and when the responsible relative's financial status has not been reviewed for one year.

Within the six-year period after the date of a client's discharge from the facility, the department from time to time may, and upon request of the client shall, reevaluate the client's ability to pay any balance of the charge for cost of

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care.

9515.1400 PERSONS INTERVIEWED TO DETERMINE ABILITY TO PAY.

In all instances the client shall be present at the interview to determine ability to pay unless the client is a minor or the treatment staff of the state facility attests the client's presence is medically contraindicated. When the client cannot be present at the interview, the reason shall be noted in the financial file for that client.

The client shall be the source of financial information to determine ability to pay except when the management of the client's financial affairs is in the hands of another person. When the client is not the source of financial information the reason shall be noted in the financial file for that client.

When the client is not able to act on his or her own behalf, the person interviewed shall be the client's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the client, a trustee, a representative payee, the client's legal representative, or a county social worker.

If the client is unable to pay the full cost of the care, the responsible relative shall be interviewed.

9515.1500 FINANCIAL INTERVIEW.

When a person is interviewed, the department shall:

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

B. provide the person with an informational pamphlet on cost of care and review with the person how the department determines the charges for the client's cost of care;

[For text of items C to G, see M.R.]

9515.1900 DETERMINATION ORDER AND NOTICE OF RATE.

A determination order and notice of rate showing the cost of care, the amount the person is ordered to pay and the right to a review and an appeal shall be sent by the department to the person, and the person's guardian, conservator, or representative payee.

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9515.2200 SOURCES OF INCOME CONSIDERED.

Subpart 1. **In general.** The client's ability to pay shall be determined from insurance benefits, net income, and value of property owned.

Subp. 2. **Insurance benefits.** When the investigation of the client's ability to pay discloses eligibility for insurance benefits, the client shall be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. The dollar amount of this coverage need not be specified in the determination order.

When the insurance benefits pay less than the cost of care, the ability of the client to pay the remaining part of the cost of care shall be determined from the client's net income and nonexcluded property.

Subp. 3. **Net income.** The client's entire net income remaining after the deductions from gross income have been made in accordance with part 9515.2300, subpart 4, except Supplemental Security Income paid under section 1611(e)(1)(E) of the Social Security Act, United States Code, title 42, section 1382(e)(1)(E), as amended through November 10, 1986, shall be available to pay the cost of care.

Subp. 4. **Property.** As long as the client owns property not excluded under part 9515.2500, the client shall be determined able to pay the full cost of care.

9515.2300 NET INCOME OF CLIENT.

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, except that retroactive awards of ~~social security or veterans' benefits~~ retirement, survivors, and disability insurance shall be ~~treated~~ excluded as ~~income during the months to which such benefits are attributable~~ property for six months if retained after the month of receipt. The client shall report the lump sum to the department within ten working days.

[For text of subp 3, see M.R.]

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Subp. 4. **Deductions from gross income to arrive at net income.** The following items shall be deducted from the client's monthly gross income:

[For text of items A and B, see M.R.]

C. Child care costs paid by the client and not reimbursed from any source.

D. Support payments ordered by a court and actually paid. If this deduction is taken, the individual for whom support is paid shall not be included as a member of the client's household in determining the monthly household living allowance in part 9515.2400.

[For text of items E to J, see M.R.]

K. A personal needs and clothing allowance of the client in the amount determined under Minnesota Statutes, section 256B.35 for persons receiving public assistance grants. In addition, a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation or work therapy shall be given to all clients in state facilities. The special personal allowance shall not exceed 50 percent of net monthly income.

L. Sixty percent of the income earned from child care in one's own home or, if the client chooses, the actual itemized business expenses incurred in providing child care subject to the limitations provided in parts 9515.1200, subparts 2 and 3; and 9515.2300, subpart 4, item I.

M. A client receiving inpatient services without dependents living in his or her home shall be allowed the actual cost of his or her housing and utilities in the community for the month of admission and a period of three months of continuous hospitalization subsequent to that admission. A client receiving inpatient services with dependents living in his or her home shall be allowed a pro rata share of his or her household's total actual housing costs during the month of admission and for a period of three months of continuous hospitalization subsequent to that admission. This housing allowance shall be available to the client receiving inpatient

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services only twice in any one calendar year regardless of the number of times the client is admitted to a state facility in that calendar year. A client receiving outpatient services or former client shall be allowed the actual cost of his or her housing and utilities.

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

9515.2400 MONTHLY HOUSEHOLD LIVING ALLOWANCE SCHEDULE.

Number in Household	Monthly Household Living Allowance
1	$ 539
2	$ 809
3	$1,073
4	$1,349
5	$1,618
6	$1,888
over 6	$1,888 plus $ 280 for each additional person

The number of persons in the household of a client receiving inpatient services is the number of dependents the client claims. The number in the household of a client receiving outpatient services or former client shall be the client plus the number of dependents claimed. The gross monthly income of a client's spouse, if any, shall be deducted from the housing allowances shown above.

By July 1 of each year, the department shall adjust the monthly household living allowance to reflect the annual percentage change reported in the most recent Consumer Price Index, for all urban consumers in the Minneapolis-Saint Paul area. The Consumer Price Index shall be as published by the Bureau of Labor Statistics, United States Department of Labor. The year 1967 is the standard reference base period.

By July 1 of each year, the department shall publish the adjusted monthly household living allowance in a department bulletin.

9515.2500 PROPERTY OF CLIENT.

Subpart 1. **In general.** Property shall be available to pay for the cost of the client's care to the extent owned by the client, subject to the exclusions in subparts 2 to 7.

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Subp. 2. **Real property.** The value of the client's homestead is excluded from consideration as a resource.

The value of real property owned by the client which produces a net income is excluded from consideration as a resource. Real property which the client is selling on a contract for deed and for which the client receives payments is considered income producing property.

Subp. 3. **Personal property.** The value of the following personal property is excluded from consideration as a resource:

A. the value of personal property other than stocks, bonds, and other investment instruments which is owned by the client and which yields or contributes to the production of a net income, such as tools, farm implements, livestock, and business inventory and fixtures acquired prior to hospitalization;

B. the cash or liquid assets for a single client and the cash or liquid assets for a married couple shall be the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended;

[For text of items C to G, see M.R.]

H. manufactured home used as a home by the client or the client's dependents;

[For text of items I to K, see M.R.]

L. life insurance owned by the client is the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended;

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

N. burial expenses, including a burial lot and a prepaid burial account, shall be the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended.

Subp. 4. **Waiver of property as a resource.** The department shall waive consideration of property in excess of the exemptions when the client's equity cannot be liquidated, the

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offered price is less than 80 percent of the market value given by two appraisers agreeable to both parties, or the cost of repairs necessary to meet the conditions of sale exceeds 35 percent of the offered price.

Each case shall be referred to the department's reimbursement division central office and decided on the merits of the facts recorded in the client's financial file to substantiate the circumstances.

The decision to waive the consideration shall be examined at least annually for changes in market value, opportunity for sale or mortgage, and other pertinent factors.

[For text of subp 5, see M.R.]

Subp. 6. **Documentation required.** When property described in subpart 5 is transferred during the period between two years prior to admission to a state facility and six years following discharge, the client or the representative shall provide documentation of the circumstances of the transfer.

Subp. 7. **Exemption.** The provisions of subparts 5 and 6 do not apply when the client is not continuing to accrue charges and the full cost of care has been paid. The provisions of subparts 5 and 6 do not apply to property excluded from consideration under other provisions of parts 9515.1000 to 9515.2600.

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subpart 1. **In general.** When the client is determined not to be able to pay the full cost of care, the department shall determine the ability of each responsible relative of the client to pay the amount permitted by statute.

[For text of subp 2, see M.R.]

Subp. 3. **Insurance benefits.** The responsible relative shall inform the department about dependent benefits from hospital and medical insurance carried by the relative.

Dependent benefits to a client shall be considered the same as the client's insurance.

Any difference between benefits to a client and others

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covered by the responsible relative's policy shall be verified.

The responsible relative shall complete and sign the forms necessary to verify eligibility for benefits and assign benefits to pay the cost of care of the client.

The amount of the premium paid by the responsible relative may be deducted from the responsible relative's total obligation to pay.

Subp. 4. **Liability of responsible relatives.** When the sum of the benefits described in subpart 3 and the client's other resources pay less than the full cost of care, the ability of each responsible relative to pay shall be determined in the statutory order of liability for cost of care. When two responsible relatives have the same order of liability for cost of care, a determination shall be made for each one except that a joint determination shall be made for parents who reside in the same household.

Subp. 5. **Limitations on relative's ability to pay.** The ability of a responsible relative to pay shall be determined from the annual gross earnings of the responsible relative subject to the following limitations:

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

B. No responsible relative who is a resident of Minnesota shall be ordered to pay more than ten percent of the cost of care for each client except that the responsible relative who has failed to provide the information, documents, and proofs which are necessary to determine ability to pay as required by part 9515.1500, items F and G may be ordered to pay the full cost of care until such time as they are provided.

C. The department may require full payment of the full cost of care for a client whose parents or parent, spouse, guardian, or conservator do not reside in Minnesota and are financially able to pay as determined by the department.

D. Only the annual gross earnings of the spouse of a client shall be used to determine the spouse's ability to pay.

[For text of items E to G, see M.R.]

Subp. 6. **Determination of relative's ability to pay.** A

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responsible relative who provides the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G shall have his or her ability to pay determined from the table in subpart 8. For purposes of this table, household size consists of the responsible relative and the responsible relative's dependents living in the responsible relative's household, other than the client.

A responsible relative who chooses not to provide the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G may be determined liable for the full cost of care.

Subp. 7. **Purpose of table.** The table in subpart 8 shall be used to determine a relative's ability to pay, as described in subpart 6. When there is a change in the cost of care, the department shall revise subpart 8. Adjustments shall be made according to the following formula: at each level of annual gross earnings, daily payments equal to ten percent of the cost of care for the previous year shall be adjusted to equal either the daily payment at the next lower level of earnings plus 25 percent, or ten percent of the cost of care for the current year, whichever is less; successive levels of earnings shall be added to subpart 8 if needed to incorporate daily payments up to ten percent of the cost of care for the current year; the daily payment of a responsible relative whose earnings are above these levels shall be at ten percent of the current cost of care.

Subp. 8. **Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.**

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Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
11,000-11,999	.33	0								
12,000-12,999	.45	.33	0							
13,000-13,999	.57	.45	.33	0						
14,000-14,999	.72	.57	.45	.33	0					
15,000-15,999	.87	.72	.57	.45	.33	0				
16,000-16,999	1.05	.87	.72	.57	.45	.33	0			
17,000-17,999	1.23	1.05	.87	.72	.57	.45	.33	0		
18,000-18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	
19,000-19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0
20,000-20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000-21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000-22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000-23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000-24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000-25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000-26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
27,000-27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000-28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67
29,000-29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92

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30,000-30,999	21.01	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
31,000-31,999	~~26.29~~ 23.30	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000-32,999	26.29	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75
33,000-33,999	~~26.29~~ 27.15	22.75	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000-34,999	~~26.29~~ 27.15	~~26.29~~ 27.15	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000-35,999	~~26.29~~ 27.15	~~26.29~~ 27.15	20.05	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000-36,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 25.06	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000-37,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000-38,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000-39,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	22.96	11.81	9.45	7.56	6.12	5.67	5.25
40,000-40,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	14.76	11.81	9.45	7.56	6.12	5.67
41,000-41,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	18.45	14.76	11.81	9.45	7.56	6.12
42,000-42,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	23.06	18.45	14.76	11.81	9.45	7.56
43,000-43,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	23.06	18.45	14.76	11.81	9.45
~~44,000-~~ 44,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	23.06	18.45	14.76	11.81
45,000-45,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	23.06	18.45	14.76
46,000-46,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	23.06	18.45
47,000-47,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	23.06
48,000-48,999	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15	~~26.29~~ 27.15

Subp. 9. **Maximum rate.** When the annual gross earnings exceed the amount shown in the table in subpart 8, the daily payment shall be at the statutory limitation of ten percent of the cost of care.

Subp. 10. **Verification of financial information.** The annual gross earnings of a relative and the number of dependents of a relative shall be verified from the relative's Minnesota

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state income tax return or, in the case of a relative who is not a resident of Minnesota and does not file a Minnesota state income tax return.

The amount of the premium paid by the relative to provide dependent hospital and medical insurance coverage for the client shall be verified.

Subp. 11. **Clothing and personal needs allowance of a minor.** The parents of a client who is an unmarried, dependent child are responsible for meeting the child's clothing and personal needs allowance in addition to the amount they are determined able to pay to meet the cost of care.

REPEALER. Minnesota Rules, part 9515.1200, subparts 10, 13, 14, 15, and 19a, are repealed.

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by Revisor _____

APPROVED AS TO FORM AND LEGALITY

December 23 1991

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 24 1991

Joan Anderson Growe
Secretary of State

JM

8:45a

IN THE MATTER OF PROPOSED AMENDMENTS TO RULES OF THE DEPARTMENT OF HUMAN SERVICES GOVERNING REIMBURSEMENT FOR COST OF CARE OF CLIENTS IN STATE FACILITIES, MINNESOTA RULES, PARTS 9515.1000 TO 9515.2600.

MINNESOTA DEPARTMENT OF HUMAN SERVICES

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

This rule was first promulgated in 1982 and amended in 1983, 1986 and 1988. Minnesota Rules, parts 9515.1000 to 9515.2600 set procedures for reimbursement for the cost of care of clients in state facilities. The above-entitled rule amendments are authorized by Minnesota Statutes, §246.51, subdivision 2, which authorizes the commissioner to adopt "rules establishing uniform standards for determination of client liability and relative, guardian or conservator responsibility for care provided at state facilities."

The proposed amendments are not substantive in nature and simply ensure that the rule conforms to 1989 statutory changes in certain definitions, conforms to the current annual adjustments in the Consumer Price Index (CPI), and conforms to the current cost of care rates.

The proposed amendments were developed in consultation with Department staff. Because the proposed amendments simply update the rule to comply with definitions found in state law and to comply with current adjustments to the CPI and cost of care rates, no Notice of Solicitation of Outside Information or Opinions was published, and a department advisory committee was not convened. The Department believes these amendments to be non-controversial.

SPECIFIC RULE PROVISIONS

The above-entitled rule is affirmatively presented by the Department in the following narrative in accordance with the provisions of the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14 and the rules of the Attorney General's Office.

9515.1200 DEFINITIONS.

Subpart 3a. Client.

This new subpart defines "client." The term includes "an inpatient, resident patient, outpatient, day patient, patient, and resident." This definition is necessary to ensure consistency with Minnesota Statutes, §246.50, subdivision 4 (a

client is any person receiving services at a state facility). "Client" replaces the terms "outpatient," "day care patient," "patient," and "resident" throughout the rule. This change is reasonable because it provides a single term for the type of clientele served by the state.

Subpart 4. Cost of care.

This subpart is amended to read "cost of care" rather then "per diem" or "per capita" and is consistent with the use of "cost of care" in Minnesota Statutes, §§246.50 to 246.55. The use of "cost of care" is reasonable because it allows the rule to apply to all types of services, regardless of whether the cost is determined on a daily, monthly, or per service charge.

This subpart is also amended to read "clients" rather then "patients or residents" as required by Minnesota Statutes, §246.50, subdivision 4 and is explained in subpart 3a.

The change from "care" to "services" is necessary and reasonable in order to define the term "services" in accordance with Minnesota Statutes, §246.50, subdivisions 4 and 5 and is explained in subpart 21a.

Subpart 6a. Financial file.

This new subpart is the same as that of repealed subpart 15, page 3. It is necessary and reasonable to create subpart 6a so that part 9515.1200 can list each definition alphabetically, a common practice in the definition parts of Minnesota rules. The old terms "patient" and "resident" have been replaced by "client" as required by Minnesota Statutes, §246.50, subdivision 4, explained in subpart 3a.

Subpart 8. Homestead.

This part is amended to read "client" rather than "patient or resident" as required by Minnesota Statutes, §246.50, subdivision 4 and is explained in subpart 3a.

Subpart 10. Inpatient, resident patient.

This subpart is repealed because the definition is incorporated into subpart 3a of this rule part. The terms "inpatient" and "resident patient" have been replaced by "client," a change required by Minnesota Statutes, §246.50, subdivision 4.

Subpart 13. Outpatient, day care patient.

This subpart is also repealed because the definition is incorporated into subpart 3a of this rule part. The terms "outpatient" and "day care patient" have been replaced by

"client," a change required by Minnesota Statutes, §246.50, subdivision 4.

Subpart 14. Patient.

Like subparts 10 and 13, this subpart is also repealed. The term "patient" has been incorporated into subpart 3a of this rule part. "Client" now replaces "patient," a change required by Minnesota Statutes, §246.50, subdivision 4.

Subpart 15. Financial file.

It is necessary and reasonable to repeal subpart 15 and replace it with new subpart 6a so that part 9515.1200 can list each definition alphabetically, a common practice in definition parts of Minnesota rules.

Subpart 16. Person.

This subpart is amended to read "client" rather than "patient" or "resident" as required by Minnesota Statutes, §246.50, subdivision 4 and is explained in subpart 3a. The additional terms are necessary to identify and clarify the use of "person" in the rule. When a client is unable to act on his or her own behalf, the "person" interviewed for the purpose of determining the ability of the "client" to pay for the cost of care shall be a responsible person representing the client, such as a conservator, legal guardian, representative payee, trustee, county financial or social worker, case manager, or attorney. Therefore, it is reasonable to include a representative of a "client" within the definition of a "person" in the rule.

Subpart 19a. Resident.

Subpart 19a is repealed because the statutory authority for "resident," Minnesota Statutes, §246.50, subdivision 4a was itself repealed in 1989. The repealer is also required by Minnesota Statutes, §246.50, subdivision 4 (the definition of "client," which includes a resident) and is explained in subpart 3a.

Subpart 20. Resource.

This subpart is amended to read "client" rather then "patient or resident" as required by Minnesota Statutes, §246.50, subdivision 4 and is explained in subpart 3a.

Subpart 21a. Services.

This new subpart is necessary and reasonable in order to define the term "services" in accordance with Minnesota Statutes, §246.50, subdivisions 4 and 5 (persons receive "services" at

state facilities), and to adequately explain what constitutes a "service" for the purpose of collection from clients or relatives for the cost of care at state facilities.

Subpart 22. State facility.

The additional language in this subpart is necessary and reasonable to expand the definition of "state facility" to conform with Minnesota Statutes, §246.50, subdivision 3.

95915.1300 TIME OF DETERMINATION.

It is necessary and reasonable to amend this part to read "client" rather than "patient or resident" for the reasons discussed in part 9515.1200, subpart 3a.

9515.1400 PERSONS INTERVIEWED TO DETERMINE ABILITY TO PAY.

It is necessary and reasonable to amend this part to read "client" rather than "patient or resident" for the reasons covered in part 9515.1200, subpart 3a. It is also amended to read "cost of care" instead of "per diem," consistent with the use of "cost of care" in Minnesota Statutes, §§246.50 to 246.55 as explained in part 9515.1200, subpart 4.

9515.1500 FINANCIAL INTERVIEW.

Item B. It is necessary and reasonable to modify item B to read "client's" rather than "patient's or resident's" for the reasons discussed in part 9515.1200, subpart 3a.

9515.1900 DETERMINATION ORDER AND NOTICE OF RATE.

It is necessary and reasonable to amend part 9515.1900 to read "cost of care" instead of "per diem" consistent with the use of "cost of care" in Minnesota Statutes, §§246.50 to 246.55 as explained in part 9515.1200, subpart 4.

9515.2200 SOURCES OF INCOME CONSIDERED.

Subpart 1. In general.

It is necessary and reasonable to amend this subpart to read "client's" rather than "patient's or resident's" for the reasons explained in part 9515.1200, subpart 3a.

Subpart 2. Insurance benefits.

This subpart is amended to read "client" rather than "patient or resident" for the same reasons as the amendment in subpart 1. It is also amended to read "cost of care" instead of "per diem" consistent with the use of "cost of care" in Minnesota Statutes, §§246.50 to 246.55 as explained in part 9515.1200, subpart 4.

Subpart 3. Net income.

It is necessary and reasonable to amend this subpart in the same way and for the same reasons discussed in subpart 1.

Subpart 4. Property.

It is necessary and reasonable to amend subpart 4 in the same way and for the same reasons covered in subpart 1.

9515.2300 NET INCOME OF CLIENT.

Subpart 2. Lump sums.

It is necessary and reasonable to revise this subpart to read "client" rather than "patient" for the reasons discussed in part 9515.1200, subpart 3a.

Subpart 4. Deductions from gross income to arrive at net income.

Item C. It is necessary and reasonable to change this item to read "client" rather than "patient or resident" for the same reasons explained in subpart 2.

Item D. It is necessary and reasonable to modify this item in the same way and for the same reasons as item C and is explained in subpart 2.

Item K. It is necessary and reasonable to amend item K to read "client" rather than "inpatient" and "patients or residents" for the same reasons explained in subpart 2.

Item L. It is necessary and reasonable to amend this item in the same way and for the same reasons explained in items C and D.

Item M. It is necessary and reasonable to modify item M to read "client" receiving inpatient or outpatient services rather than "inpatient," "outpatient," or "patient or resident" for the reasons explained in part 9515.1200, subpart 3a. This item is also amended to read "services," necessary to conform with

Minnesota Statutes, §246.50, subdivisions 4 and 5 as explained in part 9515.1200, subpart 21a.

Additionally, item M is amended to read "facility" rather than "hospital" as required by Minnesota Statutes, §246.50, subdivision 3 as explained in part 9515.1200, subpart 22.

9515.2400 MONTHLY HOUSEHOLD LIVING ALLOWANCE SCHEDULE.

This part provides the amount of household living allowance to be deducted from the client's gross income for the purpose of computing the client's ability to pay the cost of care. The allowance values are adjusted annually to reflect the change in the CPI, in the manner provided by this part. It is necessary and reasonable to update the rule with the latest CPI values to accurately inform the public of the current information.

Because the allowance values in the table are adjusted annually to reflect the CPI change, the new figures will be out-of-date at the beginning of the next fiscal year (July 1, 1992). Therefore, it is necessary to require the Department to inform county commissioners, county human service boards, county courts, and state facilities by way of departmental *Instructional Bulletins* of annual updates. This language is a reasonable method of keeping part 9515.2400 current, particularly when the Department is already required to update the allowance values by July 1 of each year.

It is necessary and reasonable to amend this part to read "client" receiving inpatient or outpatient services instead of "patient or resident" for the reasons discussed in part 9515.1200, subpart 3a. It is further amended to read "services," necessary to conform to Minnesota Statutes, §246.50, subdivisions 4 and 5 as explained in part 9515.1200, subpart 21a.

9515.2500 PROPERTY OF CLIENT.

Subpart 1. In general.

It is necessary and reasonable to change this subpart to read "client" instead of "patient or resident" for the reasons covered in part 9515.1200, subpart 3a.

Subpart 2. Real property.

It is necessary and reasonable to amend subpart 2 in the same way and for the same reasons as subpart 1.

Subpart 3. Personal property.

Item A. It is necessary and reasonable to amend item A in the same way and for the same reasons as subpart 1.

Item B. Likewise, it is necessary and reasonable to amend this item in the same way and for the same reasons as subpart 1. Additionally, changing the statutory cite from Minnesota Statutes, §256B.06 to Minnesota Statutes, §256B.056, subdivision 3 is necessary and reasonable to conform to the renumbering now required by Minnesota Statutes, §256B.06.

Item H. It is necessary and reasonable to modify this item in the same way and for the same reasons as subpart 1.

Item L. It is necessary and reasonable to amend item L in the same way and for the same reasons as the amendments to item B.

Item N. This item's statutory cite is changed from Minnesota Statutes, §§256B.06 to 256B.07 to Minnesota Statutes, §256B.056, subdivision 3. It is necessary and reasonable to conform to the renumbering now required in Minnesota Statutes, §256B.06.

Subpart 4. Waiver of property as a resource.

It is necessary and reasonable to amend this subpart in the same way and for the same reasons as subpart 1.

Subpart 6. Documentation required.

Likewise, it is necessary and reasonable to modify this subpart in the same way and for the same reasons as subpart 1.

Subpart 7. Exemption.

It is also necessary and reasonable to amend this subpart in the same way and for the same reasons as subpart 1.

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subpart 1. In general.

It is necessary and reasonable to amend this subpart to read "client" rather than "patient or resident" for the reasons detailed in part 9515.1200, subpart 3a.

Subpart 3. Insurance benefits.

It is necessary and reasonable to change this subpart in the same way and for the same reasons as subpart 1.

Subpart 4. Liability of responsible relatives.

Likewise, it is necessary and reasonable to amend this subpart in the same way and for the same reasons as subpart 1.

Subpart 5. Limitations on relative's ability to pay.

Item B. It is necessary and reasonable to modify this item to read "client" rather than "patient" for the reasons covered in part 9515.1200, subpart 3a. It is also amended to read "cost of care" rather than "per capita cost of care" to be consistent with the use of "cost of care" in Minnesota Statutes, §§246.50 to 246.55. "Cost of care" is further explained in part 9515.1200, subpart 4.

Item C. It is also necessary and reasonable to amend this item in the same way and for the same reasons as item B.

Item D. It is necessary and reasonable to amend this item in the same way and for the same reasons as subpart 1.

Subpart 6. Determination of relative's ability to pay.

It is necessary and reasonable to amend this subpart in the same way and for the same reasons as subpart 5, item B.

Subpart 7. Purpose of table.

It is necessary and reasonable to amend this subpart to read "cost of care" instead of "per capita cost of care" or "per diem" for the same reasons discussed in subpart 5, item B.

Subpart 8. Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.

Together with subpart 7, this subpart provides a formula for determining a responsible relative's ability to pay for a client's cost of care. The table provides daily payment amounts dependent on household size and annual gross earnings of the responsible relative. The table values are updated when changes occur in the cost of care in the manner provided by subpart 7, and are announced yearly in departmental *Instructional Bulletins*.

It is necessary to accurately inform the public of the current information, particularly when there are annual changes. Therefore, it is reasonable to amend the table in subpart 8 to reflect current values.

Subpart 9. Maximum rate.

It is necessary and reasonable to amend this subpart to read "cost of care" rather than "per diem" for the same reasons as in subpart 7.

Subpart 10. Verification of financial information.

It is necessary and reasonable to amend this subpart to read "client" instead of "patient" for the reasons discussed in part 9515.1200, subpart 3a.

Subpart 11. Clothing and personal needs allowance of a minor.

It is necessary and reasonable to amend this subpart to read "client" rather than "patient or resident" for the reasons discussed in part 9515.1200, subpart 3a.

EXPERT WITNESSES/SMALL BUSINESS

If this rule is heard in public hearing, the Department does not intend to have outside expert witnesses testify on its behalf. The proposed rule amendments do not affect small businesses as defined in Minnesota Statutes, §14.115.

AGRICULTURAL LAND

The proposed rule amendments do not have a direct or substantial adverse effect on agricultural land as defined in Minnesota Statutes, §17.81, subdivision 3 and referenced in Minnesota Statutes, §14.11, subdivision 2.

Dated: 31 JUL 91

George J. Steffen for

NATALIE HAAS STEFFEN
Commissioner

Stat Auth. 246.51 subd 2

The commissioner shall adopt, pursuant to the administrative procedure act, rules establishing uniform standards for determination of client leablity and relative

end of comment period Sept 18

Department of Human Services

Proposed Permanent Rules Relating to Reimbursement for Cost of Care of Clients in State Facilities

Rules as Proposed

9515.1200 DEFINITIONS.

[For text of subps 1 to 3, see M.R.]

Subp. 3a. **Client.** "Client" means a person receiving services at a state facility, whether or not those services require occupancy of a bed overnight. Client includes:

A. an inpatient;

B. a resident patient;

C. an outpatient;

D. a day patient;

E. a patient; and

F. a resident.

Subp. 4. **Cost of care ~~or per diem~~.** "Cost of care" ~~or "per diem"~~ means the ~~daily per capita~~ cost of providing ~~care~~ services to state facility ~~patients or residents, or the cost of outpatient services~~ clients, calculated in accordance with Minnesota Statutes, section 246.50, subdivision 5.

[For text of subps 5 and 6, see M.R.]

Subp. 6a. **Financial file.** "Financial file" means financial data collected for the purpose of determining ability of the client or the responsible relative to pay the client's cost of care.

[For text of subp 7, see M.R.]

Subp. 8. **Homestead.** "Homestead" means the house owned and occupied by the ~~patient or resident~~ client as his or her dwelling place, together with the land upon which it is situated as limited by Minnesota Statutes, section 510.02.

Subp. 10. [See repealer.]

[For text of subps 11 and 12, see M.R.]

Subp. 13. to 15. [See repealer.]

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Subp. 16. **Person.** "Person" means a ~~patient, resident, or~~ client, responsible relative, conservator, legal guardian, representative payee, trustee, county financial or social worker, case manager, or attorney.

[For text of subps 17 to 19, see M.R.]

Subp. 19a. [See repealer.]

Subp. 20. **Resource.** "Resource" means any property or benefit that is available to pay for the cost of care of the ~~patient or resident~~ client.

[For text of subp 21, see M.R.]

Subp. 21a. **Services.** "Services" means all services in a state facility. The following are services:

A. observation;

B. care;

C. treatment;

D. diagnostic services;

E. therapeutic services;

F. counseling services treatment; and

G. other related assistance.

Subp. 22. **State facility.** "State facility" means a regional treatment center ~~or~~, state nursing home, or other facility, as defined by Minnesota Statutes, section 246.50, ~~subdivisions~~ subdivision 3 ~~and 3a~~.

9515.1300 TIME OF DETERMINATION.

Ability to pay the cost of care shall be determined when the ~~patient or resident~~ client is admitted, when there is a change in the person's financial status, when a ~~patient, resident~~ client, responsible relative, guardian, conservator, or representative payee reports a change in the financial status used in determining ability to pay, when the ~~patient or resident~~ client has been hospitalized for 120 days or more, when the ~~patient or resident~~ client is being discharged, and when the responsible relative's financial status has not been reviewed for one year.

Within the ~~six-year~~ six-year period after the date of a

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~~patient's-or-resident's~~ client's discharge from the facility, the department from time to time may, and upon request of the ~~patient-or-resident~~ client shall, reevaluate the ~~patient's-or-resident's~~ client's ability to pay any balance of the charge for cost of care.

9515.1400 PERSONS INTERVIEWED TO DETERMINE ABILITY TO PAY.

In all instances the ~~patient-or-resident~~ client shall be present at the interview to determine ability to pay unless the ~~patient-or-resident~~ client is a minor or the treatment staff of the state facility attests the ~~patient's-or-resident's~~ client's presence is medically contraindicated. When the ~~patient-or-resident~~ client cannot be present at the interview, the reason shall be noted in the financial file for that ~~patient-or-resident~~ client.

The ~~patient-or-resident~~ client shall be the source of financial information to determine ability to pay except when the management of the ~~patient's-or-resident's~~ client's financial affairs is in the hands of another person. When the ~~patient-or-resident~~ client is not the source of financial information the reason shall be noted in the financial file for that ~~patient-or-resident~~ client.

When the ~~patient-or-resident~~ client is not able to act on his or her own behalf, the person interviewed shall be the ~~patient's-or-resident's~~ client's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the ~~patient-or-resident~~ client, a trustee, a representative payee, the ~~patient's-or-resident's~~ client's legal representative, or a county social worker.

If the ~~patient-or-resident~~ client is unable to pay the full cost of the ~~per-diem~~ care, the responsible relative shall be interviewed.

9515.1500 FINANCIAL INTERVIEW.

When a person is interviewed, the department shall:

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

B. provide the person with an informational pamphlet

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on cost of care and review with the person how the department determines the charges for the ~~patient's-or-resident's~~ client's cost of care;

[For text of items C to G, see M.R.]

9515.1900 DETERMINATION ORDER AND NOTICE OF RATE.

A determination order and notice of rate showing the ~~per diem~~ cost of care, the amount the person is ordered to pay and the right to a review and an appeal shall be sent by the department to the person, and the person's guardian, conservator, or representative payee.

9515.2200 SOURCES OF INCOME CONSIDERED.

Subpart 1. **In general.** The ~~patient's-or-resident's~~ client's ability to pay shall be determined from insurance benefits, net income, and value of property owned.

Subp. 2. **Insurance benefits.** When the investigation of the ~~patient's-or-resident's~~ client's ability to pay discloses eligibility for insurance benefits, the ~~patient-or-resident~~ client shall be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. The dollar amount of this coverage need not be specified in the determination order.

When the insurance benefits pay less than the ~~per-diem~~ cost of care, the ability of the ~~patient-or-resident~~ client to pay the remaining part of the ~~per-diem~~ cost of care shall be determined from the ~~patient's-or-resident's~~ client's net income and nonexcluded property.

Subp. 3. **Net income.** The ~~patient's-or-resident's~~ client's entire net income remaining after the deductions from gross income have been made in accordance with part 9515.2300, subpart 4, except Supplemental Security Income paid under section 1611(e)(1)(E) of the Social Security Act, United States Code, title 42, section 1382(e)(1)(E), as amended through November 10, 1986, shall be available to pay the cost of care.

Subp. 4. **Property.** As long as the ~~patient-or-resident~~ client owns property not excluded under part 9515.2500,

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the ~~patient-or-resident~~ client shall be determined able to pay the full cost of care.

9515.2300 NET INCOME OF ~~PATIENT~~ CLIENT.

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property~~, except that retroactive awards of social security or veterans' benefits shall be treated as income during the months to which such benefits are attributable~~. The ~~patient~~ client shall report the lump sum to the department within ten working days.

[For text of subp 3, see M.R.]

Subp. 4. **Deductions from gross income to arrive at net income.** The following items shall be deducted from the ~~patient's-or-resident's~~ client's monthly gross income:

[For text of items A and B, see M.R.]

C. Child care costs paid by the ~~patient-or-resident~~ client and not reimbursed from any source.

D. Support payments ordered by a court and actually paid. If this deduction is taken, the individual for whom support is paid shall not be included as a member of the ~~patient's-or-resident's~~ client's household in determining the monthly household living allowance in part 9515.2400.

[For text of items E to J, see M.R.]

K. A personal needs and clothing allowance of the ~~inpatient~~ client in the amount determined under Minnesota Statutes, section 256B.35 for persons receiving public assistance grants. In addition, a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation or work therapy shall be given to all ~~patients-or-residents~~ clients in state facilities. The special personal allowance shall not exceed 50 percent of net monthly income.

L. Sixty percent of the income earned from child care in one's own home or, if the ~~patient-or-resident~~ client chooses, the actual itemized business expenses incurred in providing

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child care subject to the limitations provided in parts 9515.1200, subparts 2 and 3; and 9515.2300, subpart 4, item I.

M. ~~An~~ A client receiving inpatient services without dependents living in his or her home shall be allowed the actual cost of his or her housing and utilities in the community for the month of admission and a period of three months of continuous hospitalization subsequent to that admission. ~~An~~ A client receiving inpatient services with dependents living in his or her home shall be allowed a pro rata share of his or her household's total actual housing costs during the month of admission and for a period of three months of continuous hospitalization subsequent to that admission. This housing allowance shall be available to the client receiving inpatient services only twice in any one calendar year regardless of the number of times the ~~patient~~ client is admitted to a state ~~hospital~~ facility in that calendar year. ~~An~~ A client receiving outpatient services or former ~~patient-or-resident~~ client shall be allowed the actual cost of his or her housing and utilities.

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

9515.2400 MONTHLY HOUSEHOLD LIVING ALLOWANCE SCHEDULE.

Number in Household	Monthly Household Living Allowance	
1	$ ~~458~~	539
2	$ ~~688~~	809
3	$ ~~912~~	1,073
4	$~~1,146~~	1,349
5	$~~1,375~~	1,618
6	$~~1,604~~	1,888
over 6	$~~1,604~~	1,888 plus
	$ ~~229~~	280 for each additional person

The number of persons in the household of ~~an~~ a client receiving inpatient services is the number of dependents the ~~patient-or-resident~~ client claims. The number in the household of ~~an~~ a client receiving outpatient services or former ~~patient or-resident~~ client shall be the ~~patient-or-resident~~ client plus the number of dependents claimed. The gross monthly income of a ~~patient's-or-resident's~~ client's spouse, if any, shall be deducted from the housing allowances shown above.

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By July 1 of each year, the department shall adjust the monthly household living allowance to reflect the annual percentage change reported in the most recent Consumer Price Index, for all urban consumers in the Minneapolis-Saint Paul area. The Consumer Price Index shall be as published by the Bureau of Labor Statistics, United States Department of Labor. The year 1967 is the standard reference base period.

By July 1 of each year, the department shall publish the adjusted monthly household living allowance in a department bulletin.

9515.2500 PROPERTY OF ~~PATIENT-OR-RESIDENT~~ CLIENT.

Subpart 1. **In general.** Property shall be available to pay for the cost of the ~~patient's-or-resident's~~ client's care to the extent owned by the ~~patient-or-resident~~ client, subject to the exclusions in subparts 2 to 7.

Subp. 2. **Real property.** The value of the ~~patient's-or-resident's~~ client's homestead is excluded from consideration as a resource.

The value of real property owned by the ~~patient-or-resident~~ client which produces a net income is excluded from consideration as a resource. Real property which the ~~patient-or-resident~~ client is selling on a contract for deed and for which the ~~patient-or-resident~~ client receives payments is considered income producing property.

Subp. 3. **Personal property.** The value of the following personal property is excluded from consideration as a resource:

A. the value of personal property other than stocks, bonds, and other investment instruments which is owned by the ~~patient-or-resident~~ client and which yields or contributes to the production of a net income, such as tools, farm implements, livestock, and business inventory and fixtures acquired prior to hospitalization;

B. the cash or liquid assets for a single ~~patient-or-resident~~ client and the cash or liquid assets for a married couple shall be the standard for medical assistance recipients

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as provided in Minnesota Statutes, section ~~256B.06~~ 256B.056, subdivision 3, as from time to time amended;

[For text of items C to G, see M.R.]

H. manufactured home used as a home by the ~~patient or resident~~ client or the ~~patient's or resident's~~ client's dependents;

[For text of items I to K, see M.R.]

L. life insurance owned by the ~~patient or resident~~ client is the standard for medical assistance recipients as provided in Minnesota Statutes, section ~~256B.06~~ 256B.056, subdivision 3, as from time to time amended;

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

N. burial expenses, including a burial lot and a prepaid burial account, shall be the standard for medical assistance recipients as provided in Minnesota Statutes, ~~sections 256B.06 to 256B.07~~ section 256B.056, subdivision 3, as from time to time amended.

Subp. 4. **Waiver of property as a resource.** The department shall waive consideration of property in excess of the exemptions when the ~~patient's or resident's~~ client's equity cannot be liquidated, the offered price is less than 80 percent of the market value given by two appraisers agreeable to both parties, or the cost of repairs necessary to meet the conditions of sale exceeds 35 percent of the offered price.

Each case shall be referred to the department's reimbursement division central office and decided on the merits of the facts recorded in the ~~patient's or resident's~~ client's financial file to substantiate the circumstances.

The decision to waive the consideration shall be examined at least annually for changes in market value, opportunity for sale or mortgage, and other pertinent factors.

[For text of subp 5, see M.R.]

Subp. 6. **Documentation required.** When property described in subpart 5 is transferred during the period between two years prior to admission to a state facility and six years following discharge, the ~~patient, resident,~~ client or the representative

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shall provide documentation of the circumstances of the transfer.

Subp. 7. **Exemption.** The provisions of subparts 5 and 6 do not apply when the ~~patient-or-resident~~ client is not continuing to accrue charges and the full cost of care has been paid. The provisions of subparts 5 and 6 do not apply to property excluded from consideration under other provisions of parts 9515.1000 to 9515.2600.

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subpart 1. **In general.** When the ~~patient-or-resident~~ client is determined not to be able to pay the full cost of care, the department shall determine the ability of each responsible relative of the ~~patient-or-resident~~ client to pay the amount permitted by statute.

[For text of subp 2, see M.R.]

Subp. 3. **Insurance benefits.** The responsible relative shall inform the department about dependent benefits from hospital and medical insurance carried by the relative.

Dependent benefits to a ~~patient-or-resident~~ client shall be considered the same as the ~~patient's-or-resident's~~ client's insurance.

Any difference between benefits to a ~~patient-or-resident~~ client and others covered by the responsible relative's policy shall be verified.

The responsible relative shall complete and sign the forms necessary to verify eligibility for benefits and assign benefits to pay the cost of care of the ~~patient-or-resident~~ client.

The amount of the premium paid by the responsible relative may be deducted from the responsible relative's total obligation to pay.

Subp. 4. **Liability of responsible relatives.** When the sum of the benefits described in subpart 3 and the ~~patient's-or-resident's~~ client's other resources pay less than the full cost of care, the ability of each responsible relative to pay shall be determined in the statutory order of liability for cost of care. When two responsible relatives have the same order of

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liability for cost of care, a determination shall be made for each one except that a joint determination shall be made for parents who reside in the same household.

Subp. 5. **Limitations on relative's ability to pay.** The ability of a responsible relative to pay shall be determined from the annual gross earnings of the responsible relative subject to the following limitations:

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

B. No responsible relative who is a resident of Minnesota shall be ordered to pay more than ten percent of the cost of care for each ~~patient~~ client except that the responsible relative who has failed to provide the information, documents, and proofs which are necessary to determine ability to pay as required by part 9515.1500, items F and G may be ordered to pay the full ~~per-capita~~ cost of care until such time as they are provided.

C. The department may require full payment of the full ~~per-capita~~ cost of care for a ~~patient-or-resident~~ client whose parents or parent, spouse, guardian, or conservator do not reside in Minnesota and are financially able to pay as determined by the department.

D. Only the annual gross earnings of the spouse of a ~~patient-or-resident~~ client shall be used to determine the spouse's ability to pay.

[For text of items E to G, see M.R.]

Subp. 6. **Determination of relative's ability to pay.** A responsible relative who provides the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G shall have his or her ability to pay determined from the table in subpart 8. For purposes of this table, household size consists of the responsible relative and the responsible relative's dependents living in the responsible relative's household, other than the ~~patient-or-resident~~ client.

A responsible relative who chooses not to provide the department the information, documents, and proofs necessary to

Approved
by Revisor _____

determine ability to pay as provided in part 9515.1500, items F and G may be determined liable for the full ~~per-capita~~ cost of care.

Subp. 7. **Purpose of table.** The table in subpart 8 shall be used to determine a relative's ability to pay, as described in subpart 6. When there is a change in the ~~per-capita~~ cost of care, the department shall revise subpart 8. Adjustments shall be made according to the following formula: at each level of annual gross earnings, daily payments equal to ten percent of the ~~per-diem~~ cost of care for the previous year shall be adjusted to equal either the daily payment at the next lower level of earnings plus 25 percent, or ten percent of the ~~per diem~~ cost of care for the current year, whichever is less; successive levels of earnings shall be added to subpart 8 if needed to incorporate daily payments up to ten percent of the ~~per-diem~~ cost of care for the current year; the daily payment of a responsible relative whose earnings are above these levels shall be at ten percent of the current ~~per-diem~~ cost of care.

Subp. 8. **Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.**

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
11,000-11,999	.33	0								
12,000-12,999	.45	.33	0							
13,000-13,999	.57	.45	.33	0						
14,000-14,999	.72	.57	.45	.33	0					
15,000-15,999	.87	.72	.57	.45	.33	0				
16,000-16,999	1.05	.87	.72	.57	.45	.33	0			
17,000-17,999	1.23	1.05	.87	.72	.57	.45	.33	0		

Approved by Revisor _____

18,000-18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	
19,000-19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0
20,000-20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000-21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000-22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000-23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000-24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000-25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000-26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
27,000-27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000-28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67
29,000-29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
30,000-30,999	~~19.49~~ 21.01	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
31,000-31,999	~~19.49~~ 26.29	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000-32,999	~~19.49~~ 26.29	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75
33,000-33,999	~~19.49~~ 26.29	~~19.49~~ 22.75	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000-34,999	~~19.49~~ 26.29	~~19.49~~ 26.29	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000-35,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 20.05	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000-36,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000-37,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000-38,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000-39,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 22.96	11.81	9.45	7.56	6.12	5.67	5.25
40,000-40,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	14.76	11.81	9.45	7.56	6.12	5.67
41,000-41,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	18.45	~~18.45~~ 14.76	11.81	9.45	7.56	6.12

Approved by Revisor _____

42,000-42,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	~~19.49~~ 18.45	14.76	11.81	9.45	7.56
43,000-43,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	18.45	14.76	11.81	9.45
44,000-44,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	18.45	14.76	11.81
45,000-45,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	~~19.49~~ 18.45	14.76
46,000 46,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	18.45
47,000-47,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06
~~48,000-~~ ~~48,999~~	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29

Subp. 9. **Maximum ~~per-diem~~ rate.** When the annual gross earnings exceed the amount shown in the table in subpart 8, the daily payment shall be at the statutory limitation of ten percent of the ~~per-diem~~ cost of care.

Subp. 10. **Verification of financial information.** The annual gross earnings of a relative and the number of dependents of a relative shall be verified from the relative's Minnesota state income tax return or, in the case of a relative who is not a resident of Minnesota and does not file a Minnesota state income tax return, from the United States income tax return.

The amount of the premium paid by the relative to provide dependent hospital and medical insurance coverage for the ~~patient~~ client shall be verified.

Subp. 11. **Clothing and personal needs allowance of a minor.** The parents of a ~~patient or resident~~ client who is an unmarried, dependent child are responsible for meeting the child's clothing and personal needs allowance in addition to the amount they are determined able to pay to meet the cost of care.

REPEALER. Minnesota Rules, part 9515.1200, subparts 10, 13, 14, 15, and 19a, are repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Reimbursement for Cost of Care of Clients in State Facilities

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9515

The attached rules are approved for publication in the State Register

Harry M. Walsh
Deputy Revisor

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

DATE: December 9, 1991

SUBJECT: Review of a Rule Adopted Without a Public Hearing; the State Department of Human Services Rules Governing Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600

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

Official documents in this submitted material include:

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

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

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

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

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

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

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

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

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

10. No requests to be notified of submittal of the rule to the Attorney General were received.

11. A copy of the cover letter to the LCRAR submitting a copy of the Statement of Need and Reasonableness as required under Minnesota Statutes, section 14.131.

Please note that the Department did not publish a notice of solicitation of outside information or opinions in the State Register because the proposed amendments simply update the rule to comply with definitions found in state law and to comply with current adjustments to the Consumer Price Index and cost of care rates.

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

Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Relating to Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 246.51, subdivision 2.

(2) All persons have 30 days or until 4:30 p.m. on September 18, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

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

Stephanie L. Schwartz
Department of Human Services
Rules & Bulletins Division
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 297-4302

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

(11) Minnesota Rules, parts 9515.1000 to 9515.2600 govern the reimbursement to state facilities for the cost of care of clients. This rule affects state facilities, clients of state facilities, and responsible relatives, guardians, trustees, conservators, case managers and representative payees of clients.

The rule amendments are necessary for the rule to conform to current statutory definitions and usage: "client" replaces the terms "outpatient," "inpatient," "day care patient," "patient," and "resident;" "cost of care" now replaces "per diem" and "per capita;" and "state facility" replaces "regional treatment center" and "state nursing home." The term "person" is amended to refer to clients, conservators, legal guardians, representative payees, trustees, county financial or social workers, case managers, or attorneys. There is a new term, "services," which is defined as all services in a state facility: observation, care, treatment, diagnostic services, therapeutic services, counseling services treatment, and other related assistance.

Additional amendments in Minnesota Rules, part 9515.2400 replace outdated figures for the monthly household living allowance with current (fiscal year 1992) figures and require that by July 1st of each year, the Department will publish new figures by department bulletin. Lastly, amendments in Minnesota Rules, part 9515.2600, subpart 8 replace outdated figures for the daily payment based on ability to pay with current (fiscal year 1992) figures.

(11) A free copy of the rule is available upon request from Stephanie L. Schwartz at the address and telephone number above. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Stephanie L. Schwartz at the address and telephone number above upon request.

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

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

Date: 31 JUL 91

for George J. Steffen
NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Relating to Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Nancy Bishop, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 14th day of August, 1991.

That on the 14th day of August, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Nancy J. Bishop

Subscribed and sworn to before me

this 14 day of August, 1991.

Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 14, 1996

Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Relating to Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 246.51, subdivision 2.

All persons have 30 days or until 4:30 p.m. on September 18, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

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

Stephanie L. Schwartz
Department of Human Services
Rules & Bulletins Division
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 297-4302

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

Minnesota Rules, parts 9515.1000 to 9515.2600 govern the reimbursement to state facilities for the cost of care of clients. This rule affects state facilities, clients of state facilities, and responsible relatives, guardians, trustees, conservators, case managers and representative payees of clients.

The rule amendments are necessary for the rule to conform to current statutory definitions and usage: "client" replaces the terms "outpatient," "inpatient," "day care patient," "patient," and "resident;" "cost of care" now replaces "per diem" and "per capita;" and "state facility" replaces "regional treatment center" and "state nursing home." The term "person" is amended to refer to clients, conservators, legal guardians, representative payees, trustees, county financial or social workers, case managers, or attorneys. There is a new term, "services," which is defined as all services in a state facility: observation, care, treatment, diagnostic services, therapeutic services, counseling services treatment, and other related assistance.

Additional amendments in Minnesota Rules, part 9515.2400 replace outdated figures for the monthly household living allowance with current (fiscal year 1992) figures and require that by July 1st of each year, the Department will publish new figures by department bulletin. Lastly, amendments in Minnesota Rules, part 9515.2600, subpart 8 replace outdated figures for the daily payment based on ability to pay with current (fiscal year 1992) figures.

A free copy of the rule is available upon request from Stephanie L. Schwartz at the address and telephone number above. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Stephanie L. Schwartz at the address and telephone number above upon request.

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

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

Date: 31 JUL 91

for George J. Steffen
NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Relating to Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 14th day of August, 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
- The 9 Regional Treatment Centers
- 5 State Operated Community Services (SOCS)

Nancy L. Bishop

Subscribed and sworn to before me

this 14 day of August, 1991

Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 14, 1996

files and identified in accounts separate from other facility or program costs. The provider's and subcontractor's records shall be subject to the maintenance schedule, audit availability requirements, and other provisions in parts ~~9505.1750~~ 9505.2160 to ~~9505.2150~~ 9505.2245.

Subp. 2. **County board records.** The county board shall maintain complete fiscal records and supporting documentation identifying the ~~clients~~ recipients served and the services and costs provided under the county board's agreement with the department. If the county board provides home and community-based services in addition to case management, the county board's records must include the information required in part 9525.1870. The county board records shall be subject to the maintenance schedule, audit availability requirements, and other provisions in parts ~~9505.1750~~ 9505.2160 to ~~9505.2150~~ 9505.2245.

Subp. 3. **Availability of records.** The county board's, the provider's, and the subcontractor's financial records described in subparts 1 and 2, must be available, on request, to the commissioner and the federal Department of Health and Human Services ~~in accordance with~~ according to parts ~~9500.0750 to 9500.1080,~~ ~~9505.1750~~ 9505.2160 to ~~9505.2150,~~ 9505.2245 and 9525.1800 to 9525.1930.

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

9525.2010 DEFINITIONS.

[For text of subps 1 to 33, see M.R.]

Subp. 34. **Supported living services for children.** "Supported living services for children" means residential-based habilitation services provided on a daily basis to a waivered services recipient under 18 years of age who resides in a service site licensed under parts 9545.0010 to 9545.0260 for up to ~~three~~ four residents.

[For text of subps 35 and 36, see M.R.]

REPEALER. *Minnesota Rules*, parts 9525.1800, subparts 4, 16, and 19; 9525.1860, subparts 2 and 5; and 9525.1930, subpart 2, are repealed.

Department of Human Services

Proposed Permanent Rules Relating to Reimbursement for Cost of Care of Clients in State Facilities

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 246.51, subdivision 2.

All persons have 30 days or until 4:30 p.m. on September 18, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

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

Stephanie L. Schwartz
Department of Human Services
Rules & Bulletins Division
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 297-4302

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

Minnesota Rules, parts 9515.1000 to 9515.2600 govern the reimbursement to state facilities for the cost of care of clients. This rule affects state facilities, clients of state facilities, and responsible relatives, guardians, trustees, conservators, case managers and representative payees of clients.

The rule amendments are necessary for the rule to conform to current statutory definitions and usage: "client" replaces the terms "outpatient," "inpatient," "day care patient," "patient," and "resident;" "cost of care" now replaces "per diem" and "per capita;" and "state facility" replaces "regional treatment center" and "state nursing home." The term "person" is amended to refer to clients, conservators, legal guardians, representative payees, trustees, county financial or social workers, case managers, or attorneys. There is a new term, "services," which is defined as all services in a state facility: observation, care, treatment, diagnostic services, therapeutic services, counseling services treatment, and other related assistance.

Additional amendments in *Minnesota Rules*, part 9515.2400 replace outdated figures for the monthly household living allowance with current (fiscal year 1992) figures and require that by July 1st of each year, the Department will publish new figures by department bulletin. Lastly, amendments in *Minnesota Rules*, part 9515.2600, subpart 8 replace outdated figures for the daily payment based on ability to pay with current (fiscal year 1992) figures.

A free copy of the rule is available upon request from Stephanie L. Schwartz at the address and telephone number above. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Stephanie L. Schwartz at the address and telephone number above upon request.

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

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

Natalie Haas Steffen
Commissioner

Rules as Proposed

9515.1200 DEFINITIONS.

[For text of subps 1 to 3, see M.R.]

Subp. 3a. **Client.** "Client" means a person receiving services at a state facility, whether or not those services require occupancy of a bed overnight. Client includes:

A. an inpatient;

B. a resident patient;

C. an outpatient;

D. a day patient;

E. a patient; and

F. a resident.

Subp. 4. **Cost of care ~~or per diem~~.** "Cost of care" ~~or "per diem"~~ means the ~~daily per capita~~ cost of providing ~~care~~ services to state facility ~~patients or residents, or the cost of outpatient services~~ clients, calculated in accordance with *Minnesota Statutes*, section 246.50, subdivision 5.

[For text of subps 5 and 6, see M.R.]

Subp. 6a. **Financial file.** "Financial file" means financial data collected for the purpose of determining ability of the client or the responsible relative to pay the client's cost of care.

[For text of subp 7, see M.R.]

Subp. 8. **Homestead.** "Homestead" means the house owned and occupied by the ~~patient or resident~~ client as his or her dwelling place, together with the land upon which it is situated as limited by *Minnesota Statutes*, section 510.02.

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Subp. 10. [See repealer.]

[For text of subps 11 and 12, see M.R.]

Subp. 13. to 15. [See repealer.]

Subp. 16. **Person.** "Person" means a ~~patient, resident, or~~ client, responsible relative, conservator, legal guardian, representative payee, trustee, county financial or social worker, case manager, or attorney.

[For text of subps 17 to 19, see M.R.]

Subp. 19a. [See repealer.]

Subp. 20. **Resource.** "Resource" means any property or benefit that is available to pay for the cost of care of the ~~patient or resident~~ client.

[For text of subp 21, see M.R.]

Subp. 21a. **Services.** "Services" means all services in a state facility. The following are services:

A. observation;

B. care;

C. treatment;

D. diagnostic services;

E. therapeutic services;

F. counseling services treatment; and

G. other related assistance.

Subp. 22. **State facility.** "State facility" means a regional treatment center ~~or~~, state nursing home, or other facility, as defined by *Minnesota Statutes*, section 246.50, ~~subdivisions~~ subdivision 3 ~~and 3a~~.

9515.1300 TIME OF DETERMINATION.

Ability to pay the cost of care shall be determined when the ~~patient or resident~~ client is admitted, when there is a change in the person's financial status, when a ~~patient, resident~~ client, responsible relative, guardian, conservator, or representative payee reports a change in the financial status used in determining ability to pay, when the ~~patient or resident~~ client has been hospitalized for 120 days or more, when the ~~patient or resident~~ client is being discharged, and when the responsible relative's financial status has not been reviewed for one year.

Within the ~~six year~~ six-year period after the date of a ~~patient's or resident's~~ client's discharge from the facility, the department from time to time may, and upon request of the ~~patient or resident~~ client shall, reevaluate the ~~patient's or resident's~~ client's ability to pay any balance of the charge for cost of care.

9515.1400 PERSONS INTERVIEWED TO DETERMINE ABILITY TO PAY.

In all instances the ~~patient or resident~~ client shall be present at the interview to determine ability to pay unless the ~~patient or resident~~ client is a minor or the treatment staff of the state facility attests the ~~patient's or resident's~~ client's presence is medically contraindicated. When the ~~patient or resident~~ client cannot be present at the interview, the reason shall be noted in the financial file for that ~~patient or resident~~ client.

The ~~patient or resident~~ client shall be the source of financial information to determine ability to pay except when the management of the ~~patient's or resident's~~ client's financial affairs is in the hands of another person. When the ~~patient or resident~~ client is not the source of financial information the reason shall be noted in the financial file for that ~~patient or resident~~ client.

When the ~~patient or resident~~ client is not able to act on his or her own behalf, the person interviewed shall be the ~~patient's or resident's~~ client's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the ~~patient or resident~~ client, a trustee, a representative payee, the ~~patient's or resident's~~ client's legal representative, or a county social worker.

If the ~~patient or resident~~ client is unable to pay the full cost of the ~~per diem~~ care, the responsible relative shall be interviewed.

9515.1500 FINANCIAL INTERVIEW.

When a person is interviewed, the department shall:

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

B. provide the person with an informational pamphlet on cost of care and review with the person how the department determines the charges for the ~~patient's or resident's~~ client's cost of care;

[For text of items C to G, see M.R.]

9515.1900 DETERMINATION ORDER AND NOTICE OF RATE.

A determination order and notice of rate showing the ~~per diem~~ cost of care, the amount the person is ordered to pay and the right to a review and an appeal shall be sent by the department to the person, and the person's guardian, conservator, or representative payee.

9515.2200 SOURCES OF INCOME CONSIDERED.

Subpart 1. **In general.** The ~~patient's or resident's~~ client's ability to pay shall be determined from insurance benefits, net income, and value of property owned.

Subp. 2. **Insurance benefits.** When the investigation of the ~~patient's or resident's~~ client's ability to pay discloses eligibility for insurance benefits, the ~~patient or resident~~ client shall be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. The dollar amount of this coverage need not be specified in the determination order.

When the insurance benefits pay less than the ~~per diem~~ cost of care, the ability of the ~~patient or resident~~ client to pay the remaining part of the ~~per diem~~ cost of care shall be determined from the ~~patient's or resident's~~ client's net income and nonexcluded property.

Subp. 3. **Net income.** The ~~patient's or resident's~~ client's entire net income remaining after the deductions from gross income have been made in accordance with part 9515.2300, subpart 4, except Supplemental Security Income paid under section 1611(e)(1)(E) of the Social Security Act, United States Code, title 42, section 1382(e)(1)(E), as amended through November 10, 1986, shall ~~be~~ available to pay the cost of care.

Subp. 4. **Property.** As long as the ~~patient or resident~~ client owns property not excluded under part 9515.2500, the ~~patient or resident~~ client shall be determined able to pay the full cost of care.

9515.2300 NET INCOME OF ~~PATIENT~~ CLIENT.

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, except that retroactive awards of social security or veterans' benefits shall be treated as income during the months to which such benefits are attributable. The ~~patient~~ client shall report the lump sum to the department within ten working days.

[For text of subp 3, see M.R.]

Subp. 4. **Deductions from gross income to arrive at net income.** The following items shall be deducted from the ~~patient's or resident's~~ client's monthly gross income:

[For text of items A and B, see M.R.]

C. Child care costs paid by the ~~patient or resident~~ client and not reimbursed from any source.

D. Support payments ordered by a court and actually paid. If this deduction is taken, the individual for whom support is paid shall not be included as a member of the ~~patient's or resident's~~ client's household in determining the monthly household living allowance in part 9515.2400.

[For text of items E to J, see M.R.]

K. A personal needs and clothing allowance of the ~~inpatient~~ client in the amount determined under *Minnesota Statutes*, section 256B.35 for persons receiving public assistance grants. In addition, a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation or work therapy shall be given to all ~~patients or residents~~ clients in state facilities. The special personal allowance shall not exceed 50 percent of net monthly income.

L. Sixty percent of the income earned from child care in one's own home or, if the ~~patient or resident~~ client chooses, the actual itemized business expenses incurred in providing child care subject to the limitations provided in parts 9515.1200, subparts 2 and 3; and 9515.2300, subpart 4, item I.

M. ~~An~~ A client receiving inpatient services without dependents living in his or her home shall be allowed the actual cost of his or her housing and utilities in the community for the month of admission and a period of three months of continuous hospitalization subsequent to that admission. ~~An~~ A client receiving inpatient services with dependents living in his or her home shall be allowed a pro rata share of his or her household's total actual housing costs during the month of admission and for a period of three months of continuous hospitalization subsequent to that admission. This housing allowance shall be available to the client receiving inpatient services only twice in any one calendar year regardless of the number of times the ~~patient~~ client is admitted to a state ~~hospital~~ facility

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in that calendar year. ~~An~~ A client receiving outpatient services or former ~~patient or resident~~ client shall be allowed the actual cost of his or her housing and utilities.

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

9515.2400 MONTHLY HOUSEHOLD LIVING ALLOWANCE SCHEDULE.

Number in Household	Monthly Household Living Allowance	
1	$ ~~458~~ 539	
2	$ ~~688~~ 809	
3	$ ~~912~~ 1,073	
4	~~$1,146~~ 1,349	
5	~~$1,375~~ 1,618	
6	~~$1,604~~ 1,888	
over 6	~~$1,604~~ 1,888	plus
	$ ~~229~~ 280	for each additional person

The number of persons in the household of ~~an~~ a client receiving inpatient services is the number of dependents the ~~patient or resident~~ client claims. The number in the household of ~~an~~ a client receiving outpatient services or former ~~patient or resident~~ client shall be the ~~patient or resident~~ client plus the number of dependents claimed. The gross monthly income of a ~~patient's or resident's~~ client's spouse, if any, shall be deducted from the housing allowances shown above.

By July 1 of each year, the department shall adjust the monthly household living allowance to reflect the annual percentage change reported in the most recent Consumer Price Index, for all urban consumers in the Minneapolis-Saint Paul area. The Consumer Price Index shall be as published by the Bureau of Labor Statistics, United States Department of Labor. The year 1967 is the standard reference base period.

By July 1 of each year, the department shall publish the adjusted monthly household living allowance in a department bulletin.

9515.2500 PROPERTY OF ~~PATIENT OR RESIDENT~~ CLIENT.

Subpart 1. **In general.** Property shall be available to pay for the cost of the ~~patient's or resident's~~ client's care to the extent owned by the ~~patient or resident~~ client, subject to the exclusions in subparts 2 to 7.

Subp. 2. **Real property.** The value of the ~~patient's or resident's~~ client's homestead is excluded from consideration as a resource.

The value of real property owned by the ~~patient or resident~~ client which produces a net income is excluded from consideration as a resource. Real property which the ~~patient or resident~~ client is selling on a contract for deed and for which the ~~patient or resident~~ client receives payments is considered income producing property.

Subp. 3. **Personal property.** The value of the following personal property is excluded from consideration as a resource:

A. the value of personal property other than stocks, bonds, and other investment instruments which is owned by the ~~patient or resident~~ client and which yields or contributes to the production of a net income, such as tools, farm implements, livestock, and business inventory and fixtures acquired prior to hospitalization;

B. the cash or liquid assets for a single ~~patient or resident~~ client and the cash or liquid assets for a married couple shall be the standard for medical assistance recipients as provided in *Minnesota Statutes*, section ~~256B.06~~ 256B.056, subdivision 3, as from time to time amended;

[For text of items C to G, see M.R.]

H. manufactured home used as a home by the ~~patient or resident~~ client or the ~~patient's or resident's~~ client's dependents;

[For text of items I to K, see M.R.]

L. life insurance owned by the ~~patient or resident~~ client is the standard for medical assistance recipients as provided in *Minnesota Statutes*, section ~~256B.06~~ 256B.056, subdivision 3, as from time to time amended;

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

N. burial expenses, including a burial lot and a prepaid burial account, shall be the standard for medical assistance recipients as provided in *Minnesota Statutes*, ~~sections 256B.06 to 256B.07~~ section 256B.056, subdivision 3, as from time to time amended.

Subp. 4. **Waiver of property as a resource.** The department shall waive consideration of property in excess of the exemptions when the ~~patient's or resident's~~ client's equity cannot be liquidated, the offered price is less than 80 percent of the market value given by two appraisers agreeable to both parties, or the cost of repairs necessary to meet the conditions of sale exceeds 35 percent of the offered price.

Each case shall be referred to the department's reimbursement division central office and decided on the merits of the facts recorded in the ~~patient's or resident's~~ client's financial file to substantiate the circumstances.

The decision to waive the consideration shall be examined at least annually for changes in market value, opportunity for sale or mortgage, and other pertinent factors.

[For text of subp 5, see M.R.]

Subp. 6. **Documentation required.** When property described in subpart 5 is transferred during the period between two years prior to admission to a state facility and six years following discharge, the ~~patient, resident,~~ client or the representative shall provide documentation of the circumstances of the transfer.

Subp. 7. **Exemption.** The provisions of subparts 5 and 6 do not apply when the ~~patient or resident~~ client is not continuing to accrue charges and the full cost of care has been paid. The provisions of subparts 5 and 6 do not apply to property excluded from consideration under other provisions of parts 9515.1000 to 9515.2600.

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subpart 1. **In general.** When the ~~patient or resident~~ client is determined not to be able to pay the full cost of care, the department shall determine the ability of each responsible relative of the ~~patient or resident~~ client to pay the amount permitted by statute.

[For text of subp 2, see M.R.]

Subp. 3. **Insurance benefits.** The responsible relative shall inform the department about dependent benefits from hospital and medical insurance carried by the relative.

Dependent benefits to a ~~patient or resident~~ client shall be considered the same as the ~~patient's or resident's~~ client's insurance.

Any difference between benefits to a ~~patient or resident~~ client and others covered by the responsible relative's policy shall be verified.

The responsible relative shall complete and sign the forms necessary to verify eligibility for benefits and assign benefits to pay the cost of care of the ~~patient or resident~~ client.

The amount of the premium paid by the responsible relative may be deducted from the responsible relative's total obligation to pay.

Subp. 4. **Liability of responsible relatives.** When the sum of the benefits described in subpart 3 and the ~~patient's or resident's~~ client's other resources pay less than the full cost of care, the ability of each responsible relative to pay shall be determined in the statutory order of liability for cost of care. When two responsible relatives have the same order of liability for cost of care, a determination shall be made for each one except that a joint determination shall be made for parents who reside in the same household.

Subp. 5. **Limitations on relative's ability to pay.** The ability of a responsible relative to pay shall be determined from the annual gross earnings of the responsible relative subject to the following limitations:

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

B. No responsible relative who is a resident of Minnesota shall be ordered to pay more than ten percent of the cost of care for each ~~patient~~ client except that the responsible relative who has failed to provide the information, documents, and proofs which are necessary to determine ability to pay as required by part 9515.1500, items F and G may be ordered to pay the full ~~per capita~~ cost of care until such time as they are provided.

C. The department may require full payment of the full ~~per capita~~ cost of care for a ~~patient or resident~~ client whose parents or parent, spouse, guardian, or conservator do not reside in Minnesota and are financially able to pay as determined by the department.

D. Only the annual gross earnings of the spouse of a ~~patient or resident~~ client shall be used to determine the spouse's ability to pay.

[For text of items E to G, see M.R.]

Subp. 6. **Determination of relative's ability to pay.** A responsible relative who provides the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G shall have his or her ability to pay determined from the table in subpart 8. For purposes of this table, household size consists of the responsible relative and the responsible relative's dependents living in the responsible relative's household, other than the ~~patient or resident~~ client.

A responsible relative who chooses not to provide the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G may be determined liable for the full ~~per capita~~ cost of care.

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Subp. 7. **Purpose of table.** The table in subpart 8 shall be used to determine a relative's ability to pay, as described in subpart 6. When there is a change in the ~~per capita~~ cost of care, the department shall revise subpart 8. Adjustments shall be made according to the following formula: at each level of annual gross earnings, daily payments equal to ten percent of the ~~per diem~~ cost of care for the previous year shall be adjusted to equal either the daily payment at the next lower level of earnings plus 25 percent, or ten percent of the ~~per diem~~ cost of care for the current year, whichever is less; successive levels of earnings shall be added to subpart 8 if needed to incorporate daily payments up to ten percent of the ~~per diem~~ cost of care for the current year; the daily payment of a responsible relative whose earnings are above these levels shall be at ten percent of the current ~~per diem~~ cost of care.

Subp. 8. **Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.**

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
11,000-11,999	.33	0								
12,000-12,999	.45	.33	0							
13,000-13,999	.57	.45	.33	0						
14,000-14,999	.72	.57	.45	.33	0					
15,000-15,999	.87	.72	.57	.45	.33	0				
16,000-16,999	1.05	.87	.72	.57	.45	.33	0			
17,000-17,999	1.23	1.05	.87	.72	.57	.45	.33	0		
18,000-18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	
19,000-19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0
20,000-20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000 21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000-22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000-23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000-24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000-25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000-26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
27,000-27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000-28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
29,000-29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
30,000-30,999	~~19.49~~ 21.01	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
31,000-31,999	~~19.49~~ 26.29	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000-32,999	~~19.49~~ 26.29	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75
33,000-33,999	~~19.49~~ 26.29	~~19.49~~ 22.75	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000-34,999	~~19.49~~ 26.29	~~19.49~~ 26.29	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000-35,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 20.05	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000-36,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000-37,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000-38,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000-39,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 22.96	11.81	9.45	7.56	6.12	5.67	5.25
40,000-40,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	14.76	11.81	9.45	7.56	6.12	5.67
41,000-41,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	18.45	~~18.45~~ 14.76	11.81	9.45	7.56	6.12
42,000-42,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	~~19.49~~ 18.45	14.76	11.81	9.45	7.56
43,000-43,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	18.45	14.76	11.81	9.45
44,000-44,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	18.45	14.76	11.81
45,000-45,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	~~19.49~~ 18.45	14.76
46,000-46,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06	18.45
47,000-47,999	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 26.29	~~19.49~~ 23.06

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Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
48,000-48,999	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29

Subp. 9. **Maximum ~~per diem~~ rate.** When the annual gross earnings exceed the amount shown in the table in subpart 8, the daily payment shall be at the statutory limitation of ten percent of the ~~per diem~~ cost of care.

Subp. 10. **Verification of financial information.** The annual gross earnings of a relative and the number of dependents of a relative shall be verified from the relative's Minnesota state income tax return or, in the case of a relative who is not a resident of Minnesota and does not file a Minnesota state income tax return, from the United States income tax return.

The amount of the premium paid by the relative to provide dependent hospital and medical insurance coverage for the ~~patient~~ client shall be verified.

Subp. 11. **Clothing and personal needs allowance of a minor.** The parents of a ~~patient or resident~~ client who is an unmarried, dependent child are responsible for meeting the child's clothing and personal needs allowance in addition to the amount they are determined able to pay to meet the cost of care.

REPEALER. *Minnesota Rules*, part 9515.1200, subparts 10, 13, 14, 15, and 19a, are repealed.

Department of Labor and Industry

Proposed Permanent Rules Relating to Occupational Safety and Health; Contested Case Procedures

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, Sections 14.06, 182.657, and 182.661 which permit the agency to adopt rules and procedures necessary to implement the provisions of *Minnesota Statutes* Chapter 182.

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

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

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

Pam Ayers
Department of Labor and Industry
Third Floor, 443 Lafayette Road
St. Paul, MN 55155-4301
(612) 296-2992

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

The rule proposal for adoption relates to the following matters: due to a recent statutory change it is necessary to make some changes to the procedural rules relating to contestation of Occupational Safety and Health Citations. Some rules previously under the jurisdiction of the Occupational Safety and Health Review Board have been modified and proposed as new rules under the jurisdiction of the

Office of the Revisor of Statutes
Administrative Rules

Harry M. Walsh
Deputy Revisor
296-4752

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

November 8, 1991

Stephanie Schwartz
Department of Human Services
444 Lafayette Road, 1st Floor
St. Paul, MN 55155

RE: File No. 1704

Dear Stephanie:

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,

Harry M. Walsh

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 Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on Monday, August 19, 1991 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on Wednesday, August 14, 1991. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

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

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

9515.2300 NET INCOME OF CLIENT.

Subp. 2. **Lump sums.**

The subject matter of this subpart is how to treat, for income purposes, lump sum payments when received by clients receiving Medicaid (in Minnesota, known as Medical Assistance).

In the Department's published proposed modifications to this subpart, the only amendment was changing the word "patient" to "client," discussed on pages 2 - 3 of the Statement of Need and Reasonableness.

As written with the one proposed modification, subpart 2 states that lump sums,

> other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, **except that retroactive awards of social security or veterans' benefits shall be treated as income during the months to which such benefits are attributable.** The client shall report the lump sum to the department within ten working days. (emphasis added)

However, this language does not conform to the federal government's interpretation of Medicaid law.

The United States Health and Human Services Agency oversees the Medicaid program. The responsibility for administering this program lies with the Health Care Financing Administration (HCFA), publisher of the Program Operations Manual System (POMS), which instructs state agencies on implementation of federal Medicaid statutes and regulations.

According to HCFA's POMS 01110.600B.3, the general policy is that all income is counted (i.e., not excluded) as income in the month received and thereafter is treated as property; this is stated in the first clause of subpart 2. Of the exceptions to this general policy found in 20 CFR 416.1112 and 20 CFR 416.1124, no exceptions for veterans' benefits are listed. Therefore, awards of veterans' benefits fit the general policy and are treated as income in the month received and as property thereafter (and, accordingly, fall within the first clause of current subpart 2).

According to POMS 01130.600B, retroactive lump sum payments of Retirement, Survivors, and Disability Insurance (RSDI) awards are excluded as property for six months if retained beyond the month of receipt. **Note:** RSDI is a program operated by the Social Security Administration that provides a monthly income to retired people, survivors or dependents of insured people, and people with disabilities. "RSDI" has the same meaning as "social security benefits" used in current part 9515.2300, subpart 2.

Therefore, it is necessary to amend subpart 2 to conform to HCFA's rulings on: a) awards of veterans' benefits; and b) retroactive awards of social security. It is reasonable to use the same wording as used in POMS.

Accordingly, subpart 2 is amended to read:

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, except that retroactive awards of ~~social security or veterans' benefits~~ Retirement, Survivors, and Disability Insurance shall be ~~treated~~ excluded as ~~income during the months to which such benefits are attributable~~ property for six months if retained after the month of receipt. The client shall report the lump sum to the department within ten working days.

These are not substantial changes because the modifications simply comply with HCFA's POMS rulings on how to treat, for income purposes, veterans' benefits and retroactive awards of RSDI (the phrase "Retirement, Survivors, and Disability Insurance" clarifies what was meant by retroactive "awards of social security . . . benefits."). HCFA's rulings take precedence over current rule language if the two are inconsistent.

Additionally and equally important to the issue of substantial change is the fact that the new language works in favor of the client by allowing broader income exclusions for veterans' benefits and RSDI than before.

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subp. 8. **Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.**

This amended subpart provides a formula, by way of a table, to determine a responsible relative's ability to pay for a client's cost of care. The table provides daily payment amounts dependent on household size and the annual gross earnings of the responsible relative. Table values are updated to comply with current cost of care rates according to the formula specified in part 9515.2600, subpart 7.

This formula reads:

> at each level of annual gross earnings, daily payments equal to ten percent of the cost of care for the previous year shall be adjusted to equal either the daily payment at the next lower level of earnings plus 25 percent, or ten percent of the cost of care for the current year, whichever is less; successive levels of earnings shall be added to subpart 8 if needed to incorporate daily payments up to ten percent of the cost of care for the current year; the daily payment

of a responsible relative whose earnings are above these levels shall be at ten percent of the current cost of care.

Mr. Darryl Meyer, Freeborn County Department of Human Services, wrote that the proposed change to this subpart's table "does not appear to have relational and proportional adjustments between the various household size gradations. This appears to be particularly the case as incomes enter the $30.000+ brackets. It would seem that the pattern seen at the $42,000+ level should be reflected throughout the schedule."

Minnesota Statutes, section 246.511 and part 9515.2600, subpart 5, item B limit responsible relative payment for cost of care to ten percent (if the responsible relative is a Minnesota resident).

Subpart 8's table originated in 1982 based upon the Title XX Service Program Plan and was derived from the fee schedule for a family of four. Various cut-off points indicated the level of earnings (the gross income) for each household size, at which entitlement to Title XX services ended. For levels of earnings above these cut-off points, it was determined reasonable to increase daily payments by 25 percent at each gross income level.

By following the formula laid out in subpart 7, the table in subpart 8 was updated for the August 19, 1991 State Register publication date. Therefore, the Department believes the chart does have relational and proportional adjustments between the various household size gradations.

However, then the table values were published in the August 19, 1991 State Register, it was believed the values were updated to comply with FY 1992 cost of care rates. Unfortunately, the mathematical extension of the table was not continued to accommodate up to the formula's ten percent cost of care level. Therefore, it is necessary and reasonable to now update the table to accurately reflect FY 1992 cost of care rates. Please see Attachment A for the updated table.

These are not substantial changes because the Department is simply updating the table to show current (FY 1992) cost of care rates, rates that are updated on July 1st of each year.

8 The above-captioned rule is needed and reasonable.

CONCLUSIONS

I hereby conclude that:

1. All modifications made to the proposed rule are not substantial changes.

2. The rules, as modified, are necessary and reasonable.

3. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.

4. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

5. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

9 NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule of the State Department of Human Services Governing Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600 (as modified) is adopted this 21st day of November, 1991, pursuant to authority vested in me by Minnesota Statutes, section 246.51, subdivision 2.

George A. Steffen

for NATALIE HAAS STEFFEN
Commissioner

Attachment A

Effective 07-01-91 to 06-30-92

RELATIVE RESPONSIBILITY CHART (1991-92)

Annual Gross Income	Household Size 1	2	3	4	5	6	7	8	9	10
11,000-11,999	.33	.00								
12,000-12,999	.45	.33	.00							
13,000-13,999	.57	.45	.33	.00						
14,000-14,999	.72	.57	.45	.33	.00					
15,000-15,999	.87	.72	.57	.45	.33	.00				
16,000-16,999	1.05	.87	.72	.57	.45	.33	.00			
17,000-17,999	1.23	1.05	.87	.72	.57	.45	.33	.00		
18,000-18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	.00	
19,000-19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	.00
20,000-20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000-21.999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000-22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000-23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000-24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000-25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000-26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
27,000-27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000-28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67
29,000-29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
30,000-30,999	21.01	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17

Effective 07-01-91 to 06-30-92

RELATIVE RESPONSIBILITY CHART (1991-92)

Annual Gross Income	Household Size 1	2	3	4	5	6	7	8	9	10
31,000-31,999	23.30	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000-32,999	26.29	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75
33,000-33,999	27.15	22.75	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000-34,999	27.15	27.15	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000-35,999	27.15	27.15	20.05	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000-36,999	27.15	27.15	25.06	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000-37,999	27.15	27.15	27.15	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000-38,999	27.15	27.15	27.15	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000-39,999	27.15	27.15	27.15	22.96	11.81	9.45	7.56	6.12	5.67	5.25
40,000-40,999	27.15	27.15	27.15	27.15	14.76	11.81	9.45	7.56	6.12	5.67
41,000-41,999	27.15	27.15	27.15	27.15	18.45	14.76	11.81	9.45	7.56	6.12
42,000-42,999	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81	9.45	7.56
43,000-43,999	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81	9.45
44,000-44,999	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81
45,000-45,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.09	18.45	14.76
46,000-46,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45
47,000-47,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06
48,000-48,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15

freeborn county minnesota

department of human services

203 West Clark Street
P.O. Box 1246
Albert Lea, MN 56007-1246

General Information	507-377-5400
Children and Adult Services	507-377-5480
Community Support Services	507-377-5440
Income Maintenance	507-377-5400
Mental Health Center	507-377-5440 - 373-1491
Support and Collections	507-377-5400
Victim's Crisis Center	507-377-5460 - 373-2223
Fax	507-377-5160

rec'd 8-20-91

August 15, 1991

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

FROM: Darryl Meyer, Director

RE: Proposed Rule Revision
Cost-of-Care/State Facilities
Rules 9515.1000

The fee schedule beginning on page 11 does not appear to have relational and proportional adjustments between the various household size gradations. This appears to be particularly the case as incomes enter the $30,000+ brackets. It would seem that the pattern seen at the $42,000+ level should be reflected throughout the schedule.

DM:jm

In the Matter of the Adoption of the Rule of the State Department of Human Services Governing Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600

DECLARATION OF COUNSEL

I, David P. Iverson, 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 0887.

Special Assistant
Attorney General

Dated: 12/9/91

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

August 14, 1991

Ms. Maryanne Hruby
Executive Director, LCRAR
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.131, enclosed is a statement of need and reasonableness relating to Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600.

If you have any questions on the statement of need and reasonableness, please do not hesitate to contact me at 297-4302.

Sincerely,

Stephanie L. Schwartz

Stephanie L. Schwartz
Rulemaker

Encl.

Celebrate MINNESOTA 1990

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STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Amendments to Department of Human Services Rules Governing Reimbursement for Cost of Care of Clients in State Facilities, Minnesota Rules, parts 9515.1000 to 9515.2600.

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 Amendment

This rule, known informally as Rule 27, sets procedures for reimbursement to the state for the cost of care of clients in state facilities. State facilities are regional treatment centers (formerly called "state hospitals") and state nursing homes.

The purpose of the amendments is to (1) update terms to comply with state law; (2) update the rule to reflect current (FY 1992) figures for the monthly household living allowance; and (3) update the rule to reflect current (FY 1992) daily payment rates based on ability to pay.

B. Statutory Authority

Minnesota Statutes, §246.51, subdivision 2 authorizes the commissioner to adopt "rules establishing uniform standards for determination of client liability and relative, guardian or conservator responsibility for care provided at state facilities."

C. Reasons for Adoption of Amendments

Amendments proposed at this time are necessary to incorporate 1989 changes in state law and update the rule to reflect current figures for the monthly household living allowance (part 9515.2400) and the daily payment based on ability to pay (part 9515.2600, subpart 8).

D. Background and Funding Source

The proposed rules affect DHS rule parts 9515.1000 to 9515.2600, or Rule 27. The rule was promulgated in 1981 and amended in 1983, 1986 and 1988.

As noted above, Rule 27 sets procedures for reimbursement to the state for the cost of care of clients in state facilities. State facilities are regional treatment centers (formerly called "state hospitals") or state nursing homes.

Because there is no fiscal impact to the state or the counties, there is no need for a source of funding.

III. METHODOLOGY AND EXPLANATION OF COSTS

The Department projects that this rule will have no fiscal impact on the state or the counties because the proposed amendments are not substantive in nature; the modifications merely amend outdated terminology and supply current figures to determine a client's monthly household living allowance and the daily payment for cost of care.

Date: 31 JUL 91

George J. Steffen
for NATALIE HAAS STEFFEN
Commissioner